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THE STATE OF LIVESTOCK IN AMERICA

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

UNITED STATES SENATE

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THE STATE OF LIVESTOCK IN AMERICA

Tuesday, June 28, 2011

United States Senate,
Committee on Agriculture, Nutrition and Forestry,
Washington, DC

The Committee met, pursuant to notice, at 2:48 p.m., in Room 106, Dirksen Senate Office Building, Hon. Debbie Stabenow, Chairwoman of the Committee, presiding.

Present: Senators Stabenow, Baucus, Klobuchar, Roberts, Cochran, Johanns, Boozman, Grassley and Thune.

STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR FROM THE STATE OF MICHIGAN, CHAIRWOMAN, COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Chairwoman Stabenow. Good afternoon and welcome to the Committee on Agriculture, Nutrition and Forestry. We very much appreciate all of our witnesses. We have two excellent panels today, and we very much look forward to your testimony, and we thank you for being here.

Today, we will hear about some of the exciting and innovative things happening in the livestock industry, many of which I have seen for myself back in Michigan. The livestock industry represents a $250 billion industry which supports nearly 2 million jobs nationwide and 40,000 jobs in my State of Michigan. I continue to talk about the Farm Bill as a jobs bill because that is exactly what it is, and today we are talking about a very important part of our industry.

We have two great panels of witnesses today to talk about the state of the livestock industry. On the first panel, we have senior officials from the Department of Agriculture who will cover the overall economic outlook for the industry, animal health and food safety issues, as well as conservation efforts. On our second panel, we will hear from producers and a packer about a number of issues including export opportunities, the proposed GIPSA rule, ethanol and the permanent disaster programs for livestock that we have added in the 2008 Farm Bill.

One of those producers we will hear from is Rick Sietsema. He has an excellent story to tell. I am very proud to have him here, representing the State of Michigan.

And in fact, producers all across Michigan are taking an innovative and responsible approach, thanks in part to a voluntary certification process we have in Michigan called the Michigan Agricultural Environmental Assurance Program, or MAEAP, which helps livestock producers adopt practices that manage animal waste and nutrient runoff. A central piece of this program is assessing Farm Bill conservation programs like the Environmental Quality Incentives Program, EQIP, and the Conservation Stewardship Program.

And because of the work we have done in Michigan, MAEAP and conservation programs are helping farmers find regulatory certain for the larger livestock operations. I think MAEAP is a great illustration of how we can work together with producers to find creative solutions to challenges that they are facing.

Throughout the hearing today we will hear more examples of how we can work with producers to find effective solutions to the challenges we face. For example, the Department of Agriculture has worked hard to develop a great new working relationship with the industry to ensure a safe supply of food for consumers. The Department has also worked closely with the industry to develop a plan to trace disease outbreaks and provide assurance to the countries who buy our meat products.

And I know there are many people who have concerns with the proposed GIPSA rule. I am looking forward to hearing from our witnesses about that today. I appreciate and understand the complexity of this issue, especially as it relates to different geographical regions, market structures and species. That said, I will be watching and working closely with the USDA, with my friend and Ranking Member, Senator Roberts, and will continue to work with stakeholders to find a workable solution that does not hinder economic development and innovation.

So again, welcome to the hearing. I would now like to turn to my friend and Ranking Member, Senator Roberts, for his opening remarks.

STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE STATE OF KANSAS

Senator ROBERTS. Madam Chairwoman, I appreciate your calling this hearing today which focuses on the center of America's dinner plate and the 860,000 folks that make up this nation's 100-plus billion livestock industry.

The livestock sector is a driver of the agriculture economy, also a major reason agriculture has had a substantial success in the export market. Unfortunately, despite this unmatched success, the livestock industry has been under regulatory attack—those are harsh words; I intend them to be—from both the EPA and the Department of Agriculture. This is especially true of the USDA as it applies to the proposed GIPSA rule.

During the last Farm Bill, we had a very strong, spirited debate on many of the exact proposals that are included in the proposed rule, and we rejected them all during that Farm Bill debate, in some cases by a very substantial vote margin.

Let me repeat that: The exact proposals that are included in the proposed rule, and we rejected them all, in some cases by a substantial vote margin. So much for congressional intent.

Despite the strong, clear bipartisan congressional statements and intent on this topic, the Administration went forward in direct opposition to these congressional actions.

I do not want to call into question anyone's motives. Let me make that clear. But I must say that the actions of the USDA on this rule and the past activities of GIPSA Administrator J. Dudley Butler as a lawyer in the private sector call into question the Department's impartiality on this issue.

Frankly, Secretary Vilsack was not here for the last Farm Bill debate. He did not know all of the history behind the congressional intent on this topic, and I do not think he got the full story from Mr. Butler or others who developed this rule.

Mr. Butler made a career out of suing many in the livestock and processing sectors. To be perfectly blunt, the rule as proposed looked like a trial lawyer's full employment act. Better yet, I will read a quote from the Administrator, Administrator Butler, regarding the core of the material in the rule. His quote: "That is a lawyer's dream, a plaintiff lawyer's dream." He was a plaintiff lawyer.

I understand that part of government service is that folks with diverse backgrounds and experience will fill these political positions, and that is usually a good thing. We need people with real-world experience, helping to run our government. The problem is that when those serving seem to have trouble checking their past agendas at the door.

In this instance, since we are talking about livestock, it seems like the fox is guarding the henhouse and we are missing a few hens. As a result, we are looking at a proposed rule that is undoubtedly major in its economic impact and which threatens to undo years of livestock marketing arrangements that have benefitted both livestock producers and consumers.

At a time when many talk about how agriculture is going to help lead the rebound for our economic recovery, it makes no sense to me why we would try to hamstring this industry and take away marketing tools that will have far-reaching implications in both the domestic and international marketplace.

I am disappointed that Mr. Butler is not here today. I do know, however, that the USDA Chief Economist, Dr. Joe Glauber, is a straight shooter. He is here, and he will give us honest answers to our questions.

I think that probably Secretary Vilsack, my suggestion to him would be to put Mr. Butler in the witness protection program, under the circumstances.

I look forward to hearing from Dr. Glauber along with many of our witnesses about the very real-world impact of this proposed rule.

I thank the Chairwoman for holding this hearing.

Chairwoman STABENOW. Thank you very much, Senator Roberts.

And again, we welcome our first panel. And we realize that we have your written testimony. It has been submitted for the record. We will ask you to keep your remarks to five minutes. Also, in the interest of time today, to make sure we have ample opportunity for our second panel, I will ask colleagues to stick to our five-minute rule as will I attempt to do my best to do that as well this afternoon.

So I am pleased to introduce our panelists. First, we have Dr. Joe Glauber. Dr. Glauber is the Chief Economist at the USDA. Dr. Glauber served as Deputy Chief Economist at USDA from 1992 to 2007. In 2007, he was named the Special Doha Agricultural Envoy and continues to serve as Chief Agricultural Negotiator in the Doha talks.

Second, we have Dr. Greg Parham, and we welcome you. Dr. Parham is the Administrator for USDA's Animal and Plant Health Inspection Service. Dr. Parham began his career with APHIS in 2006 as the agency's Chief Information Officer and since then has held appointments as Deputy Administrator for Marketing and Regulatory Programs and Associate Administrator until becoming Administrator of APHIS in April of this year.

Next, we have Mr. Al Almanza, who is the Administrator for the Food Safety and Inspection Service. Mr. Almanza's career began in 1978 as a food inspector in a small slaughter plant in Dalhart, Texas. Since then, he has served through the agency as Deputy District Manager, as a Labor-Management Relations Specialist and Processing Inspector. We welcome you as well.

And Chief White is with us—Chief Dave White, Chief of USDA's Natural Resources Conservation Service. Chief White began his career with the Natural Resources Conservation Service over 32 years ago, was named Chief in March of 2009. Chief White has been active in the Farm Bill process, having worked both the 2002 and 2008 Farm Bill, both time as detailees with our Committee. And so, it is good to have you back.

We thank all of you for joining us, and we will ask Dr. Glauber to proceed.

STATEMENT OF DR. JOE GLAUBER, CHIEF ECONOMIST, U.S. DEPARTMENT OF AGRICULTURE

Mr. GLAUBER. Thanks very much, Chairwoman Stabenow, Ranking Member Roberts and other members of the Committee. Thanks for the invitation to discuss current issues and developments in the livestock industry.

Let me begin with my presentation, at least to give you a brief overview of the livestock economy and what has been going on over the last six months and looking forward.

As we enter the second half of 2011, livestock prices are generally higher, supported by strong U.S. agricultural exports and very modest increases in production. However, livestock margins remain under pressure as weather events and strong demand have pushed prices for feed and other inputs to record levels. Economic growth, especially in less developed countries, and the reduced value of the dollar continue to support global demand and U.S. prices for livestock and dairy products.

Turning to the export picture, USDA's forecast for U.S. agricultural exports for fiscal 2011, as you may know, is a record high of a $137 billion, up from $108.7 billion last year and the previous record almost $115 billion in fiscal 2008.

U.S. exports of livestock, poultry and dairy products are forecast to reach a record $26.5 billion in fiscal 2011, up $5 billion from the previous year.

U.S. beef exports for 2011 are forecast at 2.59 billion pounds. I note this is the first time that our exports for beef have exceeded the level, pre-BSE levels. So after a long time, we finally climbed back so that at least our exports for 2011 are forecast above the pre-BSE levels. We are expecting a slight decline for 2012 although that still, I think, reflects the fact we are anticipating stronger national demand, but total beef supplies will likely be about 4 percent lower.

U.S. pork exports are forecast to increase to 4.9 billion pounds in 2011. That is an increase of 15 percent from 2010. U.S. exports to South Korea, up 195 percent during the first quarter, are expected to abate later this year as domestic production begins to rebound from recent foot and mouth disease outbreaks there. U.S. pork exports in 2012 are expected to decline slightly to 4.8 billion pounds as exports to South Korea decline, as pork production recovers in that country.

For broilers, broiler exports are forecast to decline from 6.77 billion pounds in 2010 to 6.48 billion pounds due primarily to lower exports from Russia and China. Broiler exports in 2012 are expected to total 6.7 billion, again up 3.4 percent from the 2011 forecast.

One of the bigger issues facing livestock producers has been the higher feed costs. For the 2011–2012 marketing year, global demand is forecast to exceed global production, causing global stocks of grains and oil seeds as a percent of use to fall and crop prices to rise.

As many of you know, on Thursday, NASS will release its acreage report. This has been much anticipated by the market because of the interest in how planting delays and flooding have affected corn, wheat and soybean plantings.

Our current estimates for total corn supplies are down 230 million bushels from last year. Lower beginning stocks more than offset the projected increase in corn production. All this contributes to lower corn ending stocks for 2011-2012, projected at 695 million bushels, or 35 million bushels lower than beginning stocks, and that has pushed the farm price for corn to a record $6 to $7 per bushel, up from this year's current record of $5.30.

And I might add the prices for other feed stuffs are projected to remain high. Soybean prices, for example, we are now forecasting those at $13 to $14 per bushel for 2011-2012 compared to this year's record of $11.40. And that means soybean yield prices projected at $375 to $405 per ton, again up from 2010 levels.

And lastly wheat prices, and we are seeing some feeding of wheat now for livestock because of its competitiveness with corn. But it too, of course, is looking at record prices. We are forecasting those at $7 to about $8.40.

I will close here, but I think the takeaway from this is that feed prices have kept margins quite tight. And this has in fact meant for livestock, where we would normally see with the high prices that we have seen in beef, pork and poultry, where we might expect more expansion, we just have not seen the expansion, and that is largely because of the pressures the producers have been under, because of these tight margins. And given the tightness in the markets and these low prices, or these low stock levels, I think the tightness will continue for some time.

And with that, let me conclude. Thanks.

[The prepared statement of the USDA can be found on page 120 in the appendix.]

Chairwoman STABENOW. Thank you very much.

Dr. Parham, welcome.

STATEMENT OF DR. GREG PARHAM, ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Dr. PARHAM. Thank you, Madam Chairwoman and members of the Committee.

My name is Dr. Gregory Parham, and I was recently appointed the Administrator to USDA's Animal and Plant Health Inspection Service. Although I am new to this role, I am not new to this agency or to USDA. As you heard, I have been with APHIS since 2006 and with USDA since 1982.

My father, a veterinarian like me, spent his entire career with APHIS and its predecessor agencies. From him, I learned the value of public service and especially the importance of safeguarding agriculture. It is with that spirit that I am so proud to be here before you today.

I am also joined today by Dr. John Clifford, the U.S. Chief Veterinary Officer and also the Deputy Administrator for Veterinary Services within our agency, and he too shares a strong commitment to agriculture and APHIS's critical mission of safeguarding animal health.

While much of USDA's focus is on preventing disease, we must also be prepared should a foreign animal disease be detected in our country. We must be ready to minimize the potentially devastating effects on livestock and livelihoods of producers. Key to those efforts is an effective animal disease traceability system. We want to be able to identify sick or potentially exposed animals, see where they have been and identify other animals with which they have been in contact. We could then isolate and treat effectively affected animals, securing animal health and helping ensure that markets for healthy animals stay open domestically and around the world.

We are also developing a proposed rule which will provide states and tribal nations with enough flexibility to use the methods that work best for their producers. What works best in Michigan might not be the best for Montana. The system we are designing recognizes that fact. If two states in the West, for example, want to recognize each other's brands, that is acceptable under our system.

This flexible approach will help us hold down the costs of the overall system. We plan to provide those who choose to use them with low-cost ear tags which all States will recognize. These tags have been an effective part of our successful disease eradication programs over the years.

Aside from flexibility, the other hallmark of our approach is transparency. We have made it a priority to listen to what producers all around the country have to say, incorporating their suggestions on what an effective animal disease traceability approach should look like. At every step of the way, we have and will continue to listen to producers and the public. We want to ensure that we have as much stakeholder support as possible because participation is central to an effective and successful system.

Our commitment to listening to and responding to the needs of our producers has been key to another APHIS initiative—improving our brucellosis and tuberculosis programs. Together with our producer and State partners, we have made great strides in reducing the incidents of both diseases, but in today's animal health landscape we can continue to strengthen these programs while effectively addressing challenges like the prevalence of disease in wildlife populations.

So we have reached out to our partners for their ideas. We published concept papers on new directions for both programs and reviewed the many public comments we received. We followed up with State meetings, industry meetings, just to get their input on our proposal and what is needed.

For tuberculosis, we have issued a Federal order in April 2010 that provides greater options for dealing with TB-affected herds, and on brucellosis we issued an interim rule in December of last year that allows us to focus the program on high-risk areas. In both cases, we now have more flexibility to maintain a State's status when an infected herd is not depopulated. This saves producers time and money because they no longer have to comply with additional testing requirements because of downgraded State status, and as we move forward we will continue to review these programs with our partners and stakeholders.

Madam Chairwoman, I again thank you for the opportunity to testify today, and I look forward to working with you and members of this Committee as we protect America's agriculture and natural resources. Thank you very much.

Chairwoman STABENOW. Thank you very much.

Mr. Almanza, welcome.

STATEMENT OF ALFRED V. ALMANZA, ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. ALMANZA. Thank you, Madam Chairwoman, Ranking Member Roberts and members of the Committee. I appreciate the invitation to appear before you today to discuss FSIS and the ways we are improving public health through food safety and encouraging businesses to produce the safest products possible.

FSIS is the public health regulatory agency of the United States Department of Agriculture responsible for ensuring that our nation's domestic and imported commercial supply of meat, poultry and processed egg products is safe, secure, wholesome, accurately labeled and packaged. Our inspection program personnel are the backbone of FSIS's public health infrastructure, and domestic processing and slaughter establishments, laboratories and import houses across the country. In fiscal year 2010, we employed more than 9,800 personnel, including more than 8,000 in-plant and other front-line personnel protecting public health in approximately 6,200 federally inspected establishments nationwide.

As someone who began working on the slaughter line in a beef establishment more than 30 years ago, I know firsthand that our employees are our greatest asset and our greatest strength. We are united, one team with one purpose, to protect consumers from foodbourne illness.

During fiscal year 2010, our inspection program personnel ensured public health requirements were met in establishments that slaughter and/or process 147 million head of livestock and 9 billion poultry carcasses. FSIS inspection personnel also conducted 8 million food safety and food defense procedures to verify that the systems at all Federal establishments met food safety and wholesomeness requirements. In addition, during fiscal year 2010, inspection program personnel condemned more than 451 million pounds of poultry and more than 493,000 head of livestock during antemortem and postmortem inspection.

Protecting public health and the consumer is our mission. As a regulatory agency, we live this mission every day and in every way, from our inspectors doing the fundamental work of the agency and inspecting the products on the line to policy staff working together to ensure that FSIS's policy is up to date and meeting the demands of the present food safety system.

Even so, we understand the importance of working with industry to ensure that establishments produce safe products. Moreover, we make an extra effort through our outreach and guidance to help small and very small slaughter processing establishments to ensure that they comply with FSIS regulations. Establishments with 500 or fewer employees represent more than 90 percent of the FSIS regulated establishments.

We understand the importance of working together and providing them with the information and tools they need in order to be successful. In fiscal year 2010, we launched our small plant help desk which responded to 2,277 inquiries during the fiscal year. FSIS also distributed 24,000 copies of our Proposed Hazard Analysis and Critical Control Point Validation Guidance and the FSIS General Food Defense Plan. We also developed 12 new podcasts on food safety issues for small and very small operators, and conducted exhibits at 23 industry events to share outreach materials with small and very small operators. Through our efforts, we reached about 55,225 industry operators in fiscal year 2010.

In addition, we provide information and offer mobile slaughter facilities for small livestock and poultry producers in rural areas as well as provide the opportunity for State-inspected meat and poultry establishments with 25 or fewer employees to join a new interstate shipment program.

As previously mentioned, I began working at FSIS on the slaughter line at a beef facility. This experience in the field has given me the insight and understanding of the importance of small and very small businesses to America's rural economies. Small and very small businesses are the foundation of our rural economies and are tangible by providing jobs, direct and indirect, to those in rural America that may otherwise not have such opportunities.

Ensuring that our employees have the proper tools and FSIS's updated policies to prevent food-bourne illness has been a priority for me since being named Administrator. It is not our intention to impose rules that hinder small and very small businesses from realizing their potential. Rather, we work hard to provide the necessary tools and policies to ensure that businesses produce the safest products possible. FSIS can protect consumers without placing unnecessary burdens on businesses.

Madam Chairwoman, Ranking Member Roberts and members of this Committee, thank you for your help in ensuring the safety of meat, poultry and processed egg products and for the opportunity to testify before you today.

Chairwoman STABENOW. Thank you very much.

Chief White, welcome.

STATEMENT OF DAVE WHITE, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. WHITE. Greetings. It is grand to be here. It is much more comfortable sitting back there though.

I would like to take just a few minutes to talk to you about three areas where conservation is really making a critical difference in the livestock sector.

First is in programs. You all, through the 2002 Farm Bill and the 2008 Farm Bill, have really given us the tools to assist livestock producers. The big boy on the block is the Environmental Quality Incentives Program, which you mentioned. If you look at just the last I think it is since fiscal year 2005, 150,000 contracts with livestock producers from 2005 to 2010, huge amounts of interest out there. It is the workhorse. It is the bricks and mortar program.

But it has also been joined by another program which was created in the 2008 Farm Bill—the Conservation Stewardship Program. As you know, we can enroll 12.7 million acres a year in that. We are in our third year of enrollment. It is going on right now. As of yesterday, we had about 34 million acres in that program. About 17 million, about half, was livestock related. It is grass and pastures, mostly rangeland. So it has gone over huge with the ranching community.

I will just mention two other programs briefly. They are long-term easement programs—the Grassland Reserve and the Farm and Ranchland Protection, for those producers who want to hand it down to their kids. I was the State director in Montana. I thought man, these guys are not going to like easement programs, but I was stunned because they want—I am talking ranchers who could have sold out and become instant multimillionaires, but they really wanted to leave it to their kids. And this provides a mechanism for them to do this, as well as programs like the Wetland Reserve.

And I would be remiss and be kicked out of the club if I did not mention good ole conservation operations technical assistance, these two books right here. This is the technical plans for a large confined animal feeding operation that meets all of the requirements for the State of Montana's Department of Environmental Quality.

This right here is a simple little solar panel for a livestock watering facility that precludes the need to string wires five miles back. This is a 5.3 mile stockwater system in Utah. This is 2,900 dairy head. This is the plans where you were going to line a pond, put another separator in there. This meets all the Utah Department of Environmental Quality requirements.

This is the kind of stuff that we do every day with producers.

The second item is technology. We are doing some cool things. In EQIP, we have this Conservation Innovation Grant. My predecessors have used it. We are using it now, doing stuff with Washington State University. Some of the most incredible feed management stuff is coming out of there.

There is a company called Coaltec. They are working with a producer in West Virginia, a poultry producer, gasifying the chicken litter. He is burning it to heat his houses, and his byproduct is biochar. He is selling it, and he is making more money selling biochar than he is off his chickens now. In fact, this guy was featured in USA Today a few months ago.

Wisconsin Department of Ag has done some incredible work on advancing us in odor control, particularly around dairy operations.

And then there is Great Lakes Energy Company that has— we are working with them on four constructed wetlands. They are taking all the affluent off of a dairy, and by the time it is coming out it is dang near drinkable. And they are using some kind of algae to really help clean it up.

So the technology is coming along, especially as you look at stuff like precision ag. It is just amazing.

Third area, risk reduction. And Mr. Roberts, I am just going to tell you right now; NRCS is in the Department of Agriculture, not EPA, not the Corps, not Fish and Wildlife Service, and you all have given us the requirement.

In the Environmental Quality Incentives Program, one of our missions is to help producers beat or avoid regulation. I kind of look on NRCS as being kind of the shield arm between producers and the regulating community. Now whether it is the Clean Water Act, the Clean Air Act, the Endangered Species Act or even new areas, Madam Chair, like the Bovine Tuberculosis Project in Michigan, we are trying to keep farmers on the land.

The reason this is important: Nine billion people coming in the next four decades are going to require huge increases in production, and it is up to us to get up early, stay up late and work like a dog in between to keep our producers on the land because we are going to need them.

Thank you very much, ma'am.

Chairwoman STABENOW. Well, thank you very much to each of you. We very much appreciate your service, and we appreciate your being here.

Let me just start off, Chief White, by thanking you. You mentioned the bovine TB situation in Michigan, which has gone way too long and is serious, but I want to thank you for your wonderful leadership in working with us on creative ways to support our producers.

I was on a farm not long ago, near Alpena, Michigan and watching what they have been able to do, partnering with USDA and moving their feed operations and managing their animal waste, and so on, in a different way that is going to allow them to protect the herd and be able to keep the farm. And so, I want to thank you very much for that.

And recently, because of the increased efforts in Michigan, we have received 73 EQIP applications for the TB initiative, as you know. Sixty percent of those are first-time NRCS customers, folks that are involved in conservation for the first time. And I was really pleased to see that 15 of the producers are new and beginning farmers. So I thought that was also something that was very, very positive.

So thank you very much for that.

And Dr. Parham as well, thank you for your focus on prevention, when you mention prevention, as well as eradication because we have got a lot of work to do in this area.

So I want to thank both of you.

Let me talk about more about conservation because as you mentioned, Chief White, back in the 2002 Farm Bill, with Senator Harkin as Chair and Senator Lugar as Ranking Member working closely together, Congress made really an unprecedented investment in conservation at the time. One of these was EQIP, to help producers comply with increased regulations on the farms. At the time, livestock producers were facing increased Clean Water Act total maximum daily load requirements, CAFO permitting requirements and Clean Water Act requirements, and we listened to producers and created a 60 percent set-aside for the livestock industry.

I wonder if you might speak a little bit more in terms of how that is going. And do you see as you talk to livestock producers, as you know, as I know you do every day, are their conservation needs changing? Is it more of the same? Are compliance-related issues still their primary concern?

What should we be looking at in terms of the next Farm Bill?

Mr. WHITE. Some things have not changed since 2002. There is still a huge concern on the part of our farmers and ranchers on regulatory issues.

You mentioned the Clean Water Act. Since the 2002 bill, we have written something like 50,000 comprehensive nutrient management plans. About 81 percent of them are implemented. In 2008, EPA bought off on accepting these comprehensive nutrient plans as meeting the requirements for their non-point discharge system, with a couple modifications. So there has been huge work there.

Of course, Chesapeake Bay, that is really a canary in the coal mine that we are looking at on regulation.

I think the emerging issue, particularly out West, is the Endangered Species Act. Some of you up here remember the spotted owl. That was parts of Washington and Oregon, two States. The sage grouse is a candidate species. It has the same potential as the spotted owl, but it covers 10 times the geographic area, and it could disrupt ranching throughout the West because of the checkerboarded ownership pattern, the Federal-private.

So we are putting tremendous resources into trying to keep that bird from being listed and working. It is a partnership effort with the governors out there. I just got a really great memo from the Governor of Wyoming. He loves it. The ranchers love it. The conservation groups love it. We have good support from Fish and Wildlife Service.

So I think the concern of regulation is still there, but you all have given us such a gift through these programs that we are able to—I just wonder if we would have had these same programs in Bush I, before the spotted owl got listed, could things have been different.

And our commitment you is try and use these programs, strategically array those forces, to make sure that our owners and operators can continue to produce the food and fiber we need.

Chairwoman STABENOW. Great. Well, thank you very much.

I am looking here at my time. Thank you very much.

Mr. WHITE. Sorry.

Chairwoman STABENOW. Senator Roberts.

Senator ROBERTS. Dr. Glauber, I have eight questions, five minutes. You ready?

Mr. GLAUBER. Let's go.

Senator ROBERTS. I was especially pleased to hear the Secretary has put you in charge of the economic analysis of the proposed GIPSA rule. The entire livestock industry was especially glad to hear that.

Where is the Office of Chief Economist in terms of an in-depth cost-benefit analysis of this proposed rule?

Have you identified economic benefit to producers, the livestock industry or to consumers?

Mr. GLAUBER. Thanks very much, Senator. Yes, as you are aware, the Secretary did put my office of doing cost-benefit analysis for this rule.

I might add it is a difficult analysis. It is not like the typical sort of analysis that my office would do, looking at, say, an increase of a loan rate or something like that. The direct costs of any rule, they are typically pretty easy to calculate. I mean all things considered— things like putting on regulations to say we will gather more data or more supporting evidence. Those things, one can make some calculations on.

I think much more difficult and particularly in the case of this rule are the effects of the regulation itself on behavior by packers and integrators, et cetera. That is how they might—the regulations could—potentially affect the way they do business. A lot of——

Senator ROBERTS. Let me interrupt you on that point——

Mr. GLAUBER. Yes, please.

Senator ROBERTS. —because I have a question that pertains to that.

The GIPSA Administrator, who is not here, argues that the rule will not prevent customized marketing agreements because the rule does not call for an across-the-board ban, but what he fails to acknowledge is that the legal risks associated with this rule's competitive injury provisions will, without question, have a chilling effect on the use of marketing agreements. Will your cost-benefit analysis study the effect on the industry, the chilling effect of the use of marketing arrangements due to expected litigation?

And I have another one that follows up on that if the answer is yes.

Mr. GLAUBER. Okay. The answer will be yes, we are reviewing the cost, a lot of the comments that were received. This was a very big issue that figured in a lot of the comments that were raised by reviewers. So we are looking at that.

Senator ROBERTS. The Administrator said that the new rule will be a plaintiff lawyer's dream. That is his quote. If the rule really only expands opportunities for trial lawyers to sue, why in the heck are we doing this?

You do not have to answer that. But will your economic analysis attempt to calculate the cost of significant additional litigation on the industry?

Mr. GLAUBER. Again, Senator, I think the one thing I can assure you is that our office is spending a lot of time with the comments that have been raised. We have been looking at lot at the Informa study, the study, the RTI study that was done two or three years ago. We also are looking at a lot of the comments by those who favor this rule.

Senator ROBERTS. Those will be counted. I am talking about the private sector studies—you just mentioned Informa—that say this proposed rule is going to be a disaster. Are these studies accurate? What role do they play in your analysis?

And I am sorry I interrupted you again.

Mr. GLAUBER. No. We are looking at how these—we are looking at these analyses very carefully. I think a lot of it does hinge on what the perceived risk of litigation is and if that in fact affects behavior. We know from the RTI study the large benefits that come from alternative marketing arrangements, et cetera. And I think that is what my office now is, in a very real sense, trying to gauge and looking at.

Senator ROBERTS. Well, let me give you an example. Are you aware the State of Missouri, the Show Me State, has enacted a law similar to the proposed GIPSA rule. I also understand the governor called a special session to repeal that law. Will you study the Missouri precedent in your cost-benefit analysis?

Mr. GLAUBER. I have not looked at the Missouri law in particular. I am aware of it. I should not say that it has not figured in on the comments. We are aware of it, and I have looked at articles that have discussed that law, yes.

Senator ROBERTS. But you will.

Will your economic analysis be published for public comment?

Mr. GLAUBER. I believe all I have been asked by the Secretary is to perform the economic analysis and to present it with the rule. So I will do that.

Senator ROBERTS. We can talk to the Secretary about that.

Has the Department finally changed its mind and declared this rule economically significant in terms of the Administrative Procedures Act?

Mr. GLAUBER. I can yes to that. I think there is no doubt, particularly with the comments that have been raised, would suggest that the rule has a larger impact than $100 million. Thank you.

Senator ROBERTS. Reports in the media have leaked that the United States has not been successful in defending Canada's and Mexico's WTO case against our mandatory country of origin labeling law. If this is indeed accurate, what does this mean for the section of the Farm Bill as we prepare for the upcoming Farm Bill discussion?

Mr. GLAUBER. I would——

Chairwoman STABENOW. I would just ask you to be brief.

Mr. GLAUBER. Okay. I would love to comment on that. We have seen a preliminary analysis of that, but the actual decision comes out, I believe, tomorrow. And I would be greatly chastised by USTR and others if I were to discuss the contents.

Senator ROBERTS. Well, you can respond to that in writing.

Mr. GLAUBER. Okay. Thank you.

Senator ROBERTS. Okay. Thank you.

Chairwoman STABENOW. Thank you very much.

Senator Cochran.

Senator COCHRAN. Madam Chairman, thank you very much for convening the hearing. It comes at a time when producers in my State are very concerned about marketing prospects and the failure of the Administration to make early decisions about what they are going to do to respond to a possible breakdown in marketing.

I am told that in 2010 alone, in my State, poultry totaled $22.47 billion in the value of our production, more than double the value of the second largest agriculture industry, but that economic prospects in our State are terribly disturbing. Feed costs have reached record highs. Exports to countries like Russia and China have seen huge declines in purchasing. Poultry growers face a great deal of challenge in just maintaining their operations and continuing to try to make a living in this important industry. And that is just one example though of why it is necessary for Congress to take action.

We are hoping that we can cooperate with the Administration. We have to figure out a way to expand into new markets if the old markets are drying up and to stimulate demand for U.S. livestock products. This may be a broader problem than many of us had realized. So the convening of this hearing is really important, and I hope something specific can come from the Administration in terms of a commitment to join with the producers and find a way to restore profitability and predictability to the production and marketing of U.S. agriculture products.

I guess that is the end of my statement. I did not want to delay the panelists, but we wanted to hear what you are proposing, what you are recommending. Is there a recommendation or an initiative from the Administration to deal with the serious challenge that our producers are facing?

Mr. GLAUBER. Well, let me just say a couple of things. One, you are absolutely right about the poultry industry. It has been suffering from very weak margins because of the high feed costs. And I think this is true across species, but I think in particular for poultry recently.

And some of this, poultry also has suffered from a loss of some critical export markets. Russia has been one, as you mentioned; China, because of the countervailing and antidumping case against China. Those two have fallen.

And to give you some idea, and I know you know these numbers, but exports now over this last decade have been between 15 and 20 percent of production—so very, very important for the industry. I think opening up those markets and improving there is a very critical activity.

I think we have been working hard. I know Jim Miller, when he was Under Secretary, spent a lot of frequent flyer miles going to Russia to try to open that, get chicken flowing back to Russia. But I think, unfortunately, the economics of high feed costs, I think, are going to be around for a little while.

What we really need is for some stock rebuilding through higher production. I think one good news is I think a lot of the big increase in demand for corn use for ethanol will slow now as we start approaching the 15 billion gallon mark under the RFS. So I think that we should, with productivity gains, see some increases there.

But I cannot promise anything on the economic side, at least on the feed costs side, that could give you something to take home over the next few months for sure.

Senator COCHRAN. One of the suggestions from livestock producers in my State is the need for a warranty program to be implemented, but they say that their efforts to communicate with and establish a dialogue with USDA has not been productive. There does not seem to be an interest. We have got to move away from herd destruction orders and rely more on some preventive measures, early detection procedures, and they are not getting any help from Washington.

Dr. PARHAM. Senator Cochran, if I could respond to that, thank you for the question. And I am aware that Dr. Clifford's team is aware of this particular proposal, and it is my understanding that they have now had some contact, and there is an expectation of a meeting within the next several weeks. Okay?

Please be assured that we are interested in any innovative ideas that will allow us to continue to manage the risk associated with these programs and looking at ways other than just depopulation every time we have an issue. So yes, we are aware of it, and we will be meeting with the company in the coming weeks.

Senator COCHRAN. Is there any other witness who can tell us something encouraging?

Mr. WHITE. Do you want to hear about conservation?

Chairwoman STABENOW. And I will ask you to be brief. Thank you.

Mr. WHITE. I do not know if it directly addresses this, but we are trying to work with agriculture in a way where we can get dual value. Like in your part of the world last year, when the oil spill was going on, we did that migratory bird habitat with rice producers, cotton farmers, where they agreed to flood their land. This was working land that produced rice and corn and cotton in the summer, and it produced environmental benefits for these animals in the winter. And if we can figure out a way to do that more in a working land program, I think it would be economically beneficial to agriculture.

Senator COCHRAN. Well, I hope you will work with our staff and see if we can put something together that really provides some meaningful benefits and provides relief to farmers who really do need it.

Thank you, Madam Chairman.

Chairwoman STABENOW. Thank you very much.

Senator Grassley.

Senator GRASSLEY. Thank you, Madam Chairman.

I have three questions, one for each of three of you. I will start with Dr. Glauber.

While there are certain provisions of the GIPSA rules that I support, there are other issues that cause me some concern. One of those areas is a restriction on livestock dealers, requiring them to only buy livestock for one packer. There is real concern that this could have a very negative impact on small packers who cannot afford to have their own buyer, and some packers may elect to not go to certain sale barns if it proves too costly to send a dealer only on their behalf rather than sharing a dealer.

So, a question. I guess really two questions for you, but I am going to ask both of them at the same time. Has GIPSA considered what may be the unintended consequences to this part of the proposed rule?

This part of the rule may actually decrease competition at some sale barns. Has GIPSA considered that, and what does GIPSA plan to do to respond to these concerns in the proposed rules?

Mr. GLAUBER. Well, let me—certainly, with the first, in regards to the unintended consequences, I think this has been pointed out by many of the comments that were submitted to GIPSA. Certainly in my review of the comments, that comes up quite frequently. And you are absolutely right; that is one thing that is mentioned is the adverse effect potential on small firms.

They are certainly aware of the rule as they are going through the rule and reviewing these comments. I know from my standpoint on the economic side that is something that we certainly are taking into account.

Senator GRASSLEY. Well, what about the decreased competition? Do you think there would be decreased competition maybe if this rule goes into effect where I know your motive is to increase competition?

Mr. GLAUBER. Yes.

Senator GRASSLEY. And I applaud that motive.

Mr. GLAUBER. That was what I was alluding to.

Senator GRASSLEY. Okay.

Mr. GLAUBER. I think is the fact that a lot of the comments have brought that point to bear. That is that this could potentially decrease competition rather than increase competition.

Senator GRASSLEY. Mr. Almanza, last year there was a petition for rulemaking filed with the Department of Agriculture regarding the treatment of nonambulatory hogs at packing plants. Under current law, nonambulatory hogs are still slaughtered, but they are separated from the hogs that are able to walk. The petition filed with the USDA asks that nonambulatory hogs be euthanized. USDA has not responded to the petition.

I am not aware of any data or study that show euthanized downed pigs and not allowing them, that meat, to enter the food chain will increase food safety. In fact, it is my understanding that most fatigued hogs are able to walk again after they are able to rest for short periods.

And I suppose there are plenty of reasons that you can have downed hogs. But I remember when I worked at the Rath Packing Company back in the 1950s for 6 or 7 years they would be overheated from the hot weather coming in, and you know, they would be like down and out, but you let them rest for a while and get their breath back and their heat, temperature down, they would get up and be okay.

So what is the status of USDA's position on this matter, and can you shed any light on what health concerns USDA would be addressing if it changes the current law and treatment of downed pigs at packing plants?

Mr. ALMANZA. Yes, sir, and thank you for the question.

We are still reviewing that proposal. But you are absolutely right; the concerns with swine are totally different than with downed beef animals. And so there are some different concerns that we are looking at, and we certainly will be addressing that in the near future.

Senator GRASSLEY. Do you have any science at this point that tells you that the meat may not be as safe as for a hog that is not downed?

Mr. ALMANZA. No, sir, not that I am aware of.

Senator GRASSLEY. Okay. I would like to ask Dr. Parham. Market research suggests that overseas markets are more important than ever for American meat producers. U.S. producers need access to foreign markets, but we are hearing rumblings that the U.S.'s lack of a comprehensive BSE rule is being used by some countries as a barrier for U.S. beef.

It is my understanding that USDA has indicated it is working on a comprehensive rule. So Dr. Parham, would you agree that the U.S. needs a comprehensive BSE rule, and if so, when could we expect it to be issued?

Dr. PARHAM. Thank you, Senator Grassley, and yes, indeed we do believe that we do need a comprehensive rule. One of the things that we have done is actually combined two previous rules into one that would be comprehensive, that would also give us then compliance on the world markets, and we are working on that. It is in the process of clearance right now. While I do not want to give a specific date, certainly we have that as one of our top priorities, and we do expect to get a rule out certainly I would say within fiscal year 2012.

Senator GRASSLEY. Okay.

Chairwoman STABENOW. Thank you very much.

Senator GRASSLEY. Thank you.

Chairwoman STABENOW. Thank you.

Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Madam Chairman. Thank you for holding this hearing.

Livestock producers are really the original value-added agricultural product. They are key in my State. We are first in turkeys, third in pork and sixth in dairy production, and our livestock industry produces over $6 billion worth of products and also accounts for nearly 40 percent of the value of our State's agricultural production. The producers also support prices for our grain farmers and create thousands of jobs at processing plants like Hormel, Gold'n Plump and Jennie-O.

My first question really is one of the things that I have seen some improvement with some of our plants and our producers is just because of some of the markets opening up. And we continue to see, however, frivolous barriers to trade, like when China decided to ban American pork products because of the H1N1 virus or because of numerous Russian trade barriers to our poultry products.

Mr. Glauber, I guess I would ask this of you. How do you think we should proactively address this issue to better protect our producers from unfair and unscientific agriculture trade barriers?

Mr. GLAUBER. Well, again, I would just stress how important these markets are for U.S. livestock and poultry producers because as opposed to, say, 30 years ago where we were exporting very little, now these are very big, big markets.

And you are right; I think if we look at two of our larger markets—China and Russia—we have had some fairly major issues that we are trying to resolve, poultry being a big one in Russia.

But as you mentioned, in China of course we have had problems with beef, getting any beef in there, because of— we have had a number of discussions with USTR and USDA, have gone and met with counterparts in China.

On the H1N1, thankfully, there, it looks that we are seeing some reopening of the market for pork, but for poultry we still have problems because of the antidumping and countervailing duties on U.S. chicken products, which were of course grossly—we had a very strong market for poultry in China, but that dropped by 75 percent last year.

I think what we need is again strong bilateral engagement. You know. To the degree that there may be improper imposition of duties, et cetera, then there is always recourse through the WTO. But again, at least for China. Of course, not for Russia. But in the meantime, I think bilateral work.

And we are sending teams, preparing to send teams.

Senator KLOBUCHAR. Okay. Thank you. I have more questions.

Mr. GLAUBER. Thanks.

Senator KLOBUCHAR. Conservation programs, permanent livestock disaster programs—the House bill passed by the Ryan budget would actually cut commodity programs by $30 billion and conservation programs by $18 billion over 10 years.

Dr. Glauber, how would these drastic cuts affect the health of rural communities and the abilities of producers to rebound after natural disasters like those we just saw over the weekend in North Dakota, as well as what we have seen with tornados and historic droughts?

Mr. GLAUBER. Well, I may let Chief White chime in here on the conservation programs.

Certainly, just the magnitude of those programs in terms of dollars are income to producers and to rural communities. And to the extent that those may hit some regions disproportionately, we have not yet done an analysis of how those impacts might be felt, but they are considerable sums.

Senator KLOBUCHAR. Okay.

Mr. WHITE. Thanks, Senator. I hope I do not see what the underside of the bus looks like here in answering this.

With less money, we are going to reach fewer farmers; there will be less conservation applied to the land. So our task will be to manage whatever you all allocate, and we will do that in the most effective way we can, to hopefully do a better job of spending the money so it does the best use for conservation.

Senator KLOBUCHAR. Okay. Thank you.

Dr. Parham, on food safety, does the USDA believe that the program to track and minimize livestock diseases will improve our ability to keep our markets open and protect producers with healthy animals from financial ruin?

Dr. PARHAM. Yes, Senator Klobuchar. I believe you are speaking about animal disease traceability and our ability then to be able to trace these animals, yes?

Senator KLOBUCHAR. Yes.

Dr. PARHAM. What we have done with that particular program is really go back to the drawing board, so to speak, and build on the strengths of what was done before, to look at where some gaps were and to really hear from States, from partners, from tribal nations as to what would work best.

As I stated in my testimony, we believe that transparency and flexibility are the keystones of our approach now, and our intent is indeed to make sure that we are able to protect healthy animals as well as to be able to trace those that are diseased because, again, we believe it is not only a matter of prevention, but in the event of an outbreak we want to be able to trace those animals as quickly as possible and to take the appropriate measures when we do.

Senator KLOBUCHAR. Thank you.

Chairwoman STABENOW. Thank you.

Senator KLOBUCHAR. One last, just I can ask it later. Dr. White, I just want to give you a heads-up from some dairy producers in the southern part of my State that are concerned about some of the compliance measures. This is energy from livestock issues, the livestock waste, and they really want to get it going, but there are some red-tape issues with technologies. And I will simply put it in writing, and you can answer it.

Thank you.

Chairwoman STABENOW. And we will be happy—we are actually going to give everybody one second round on a question, and so you can wait and hold it then if you would like to do it as well.

Senator Boozman.

Senator BOOZMAN. Thank you, Madam Chair. I have a statement that I would ask unanimous consent that we put in the record.

Chairwoman STABENOW. Without objection.

[The the following information can be found on page 50 in the appendix.]

Senator BOOZMAN. Thank you very much for having the hearing, and I appreciate all of you all being here and really do appreciate the hard work that you do on behalf of our Agriculture Committee.

Dr. Glauber, you mentioned that there were a number of factors—the flooding. This has been such an unusual year. You have got flooding. You have got drought—that have affected the corn production.

And you also mentioned the ethanol. How much does ethanol affect the price of corn?

Mr. GLAUBER. Well, I think there is no question that it has an impact on corn prices. You know, I think if we were talking about corn exports increasing by 2 billion bushels, I do not think anybody would have—there would not be a debate. We would say, yes, it definitely has an impact.

Certainly, if you look over the last few years where most of that demand has been met has been through increased supply. We have increased corn area planted, and we have increased—and yields have increased. Also, remember that from—there is also significant increase in distillers dried grains and the byproducts of ethanol that go into feed production.

The impact on food prices, on the other hand, I think is much smaller, and that is for a number of reasons. The impact, of course, is carried through by higher feed costs which cause smaller production than would normally occur. And because of that, the farm value of retail food in general is pretty small, but we know that that is how it passes through. And so, the overall impact on food prices, I think, has probably been fairly small.

Over time, I think the impact—the good news is I think the impact will be lessened. One is that corn used for ethanol begins to flatten out certainly in our projections because of the fact the cap on the amount of corn-based ethanol that can be applied towards the renewable fuel standard is capped at 15 billion gallons. And then I think that over time, if we look at yield increases, which we anticipate to be about 1 percent per year, fairly conservative, but that we should see some stock rebuilding, and I think some alleviation of this tight stock situation we see right now.

Senator BOOZMAN. Thank you.

The other thing I would just comment; we really do not have an energy policy right now. We are not using the resources that we have been given. And as a result, with these very increased energy costs, certainly that is going to have a major impact. And I guess you can comment on that in a second, and again, that truly is going to be a major factor.

I am an optometrist, an eye doctor, and we used to measure a lot of things just like you are measuring. And your statistics are very good. I guess if I came home at the end of the year and told my wife that I had seen 4,500 patients this year and only seen 4,000 last year, she would say: Great, but how are we doing? You know. What is our income?

So your numbers are good.

I guess the question I have got; you know, this is the state of the community. Are farmers, is their income going up? Is it staying the same or are they losing money?

And then in light of the absence of trade deals, in light of the high corn prices for whatever reason, and in light of the high energy prices, and the list goes on and on, what is your forecast for the future, dollar-wise, percentage-wise?

Mr. GLAUBER. Yes. Certainly for net cash income, which is an aggregate measure for the sector, we are forecasting that at a nominal record. Now if you adjust for inflation, you can go back a few years and find higher things. That is for the sector, and I think there is probably a good optometrist analogy here.

But as one goes into the details and you see that the crop side of the ledger is doing very, very well, the livestock side of the ledger is doing better than it was doing certainly in 2009 when we saw very negative margins for hogs and dairy in particular, but it still is a very tight situation in terms of profit margins.

Senator BOOZMAN. So, not so great. The trade deals that we are trying to work would help that?

Mr. GLAUBER. Absolutely. If you look at the benefits for Korea, I think something, are estimated at something like $1.9 billion. Beef is about half of that. And even Colombia, which is of course much smaller, still we are looking at 30 to 40 percent increases, projected increases for livestock products. So I think these are very important particularly for the future as we look out over the next 10 years.

Senator BOOZMAN. And then having an energy policy where we lower the price, long-term, would be helpful, I guess? Certainly?

Mr. GLAUBER. As you said, certainly energy prices play a number of roles here. One is I think that for all the talk about energy, a number of things on the ethanol side, do not forget that high energy prices have made ethanol production very, very profitable. So I think that is a very important component.

And if you look at food inflation, energy plays a very major role there as well.

Senator BOOZMAN. Thank you, Madam Chair.

Chairwoman STABENOW. Thank you very much.

Senator Johanns.

Senator JOHANNS. Thank you, Madam Chairman.

Let me start out and use my perch on the Senate Ag Committee and express my appreciation to all the folks at USDA. I look out. I see familiar faces. That is always reassuring. I cannot tell you how much respect I have for the career people that are there, including you, Dr. Glauber. My temptation is to call you Joe, after traveling the world, but I will show you the respect that I think you have richly earned and refer to you as Doctor.

I want to focus, if I could, on the GIPSA rule to start out with at least. The proposed rule, as you know, in its inception was not deemed economically significant. Knowing the arduous process that a rule typically goes through at USDA and knowing the many discussions that we have had about the need for economic analysis in rulemaking, I cannot imagine, Dr. Glauber, that you would have agreed with that assessment. Am I right about that?

Mr. GLAUBER. Senator, as you do remember I am sure, what happens in this process is an agency, when it is doing its work plan for OMB in terms of here is the regulatory stream that we foresee for the year, they will give—they will list the rules that they intend to promulgate and then give a designation of what that rule should be.

This rule was deemed by the agency as significant, and it went to OMB as such, and OMB agreed that it was a significant rule. It was not deemed economically significant.

I think from my standpoint, in looking at certainly the costs, that you certainly you see this in the comments in particular that have been raised by a number of the people who have written, show significant costs on the order of billions of dollars. So I think there is no question, and I think the designation on this rule will be changed to economically significant.

Senator JOHANNS. Yes, that is the kind of answer I would expect from you, and I appreciate your candor about that.

Now I want to take even a further step backwards. I cannot even remember or count the number of times where somebody from the legal department would be in my office and we would be talking about a course of action for the USDA and the advice I would get was: Look, as much as you might want to do this, Mr. Secretary, you cannot because you do not have a grant of authority from Congress.

And that pretty well stopped the debate. Why? Because I had a lot of respect for these folks.

I happen to be on this side of the dais now and I know the process by which you get here, and it is not easy. And I am very mindful of the fact that policy gets made here.

So I look down through the grant of authority given to the USDA by the 2008 Farm Bill, and in item after item it says establish criteria, establish criteria, establish criteria, and I do not see a grant of authority, to be very blunt, for a fair amount of what is in that proposed rule. And again, I think I know USDA well enough to know that there has to be a raging debate going on about whether USDA is exceeding its authority.

Let me just ask you, Doctor, where do you fall on that debate? Do you feel this proposed rule has exceed the authority we have granted to the USDA, number one?

And then number two, and equally as important, would it be possible as this rule progresses to pull out those areas where you have exceeded the grant from Congress and stay within the limitations of our grant of authority?

Mr. GLAUBER. Senator, the only thing I can say is that I am pretty good when it comes to the economic questions. I think asking me about the law, and asking me about how extensive this is and whether or not it exceeded it, frankly, I am less good there, and I would defer to legal counsel. I am not trying to duck this. I would just—that is not something I answer or can answer as well as I can an economic question.

Senator JOHANNS. I can see your uneasiness, and I think I understand it. USDA has gone beyond its authority here, has it not?

Mr. GLAUBER. Well again, Senator, I think that again the agency certainly in putting forward the rules did not feel so, and that is what I can tell you. I have not been involved in legal discussions on this bill.

Senator JOHANNS. I see everybody behind you very uncomfortable by this line of questioning.

Thank you, Madam Chair.

Chairwoman STABENOW. You are welcome. Thank you very much.

Senator Thune.

Senator THUNE. Thank you, Madam Chairwoman, and I appreciate our panel being with us today and thank you for convening this hearing along with the Senator from Kansas.

It is an important subject as we get into the next Farm Bill. And like every segment of agricultural production, the livestock industry is facing multiple challenges, including this year, natural disasters resulting in record-setting flooding in some areas of the country and record-setting drought in others.

And I would suggest, Madam Chair, as we begin the debate, the upcoming Farm Bill, that along with drafting a bill that provides assistance for each sector of the agriculture community we need to look at the overall landscape of crop, livestock, energy and conservation programs to make certain that Federal farm program policies do not result in inequitable treatment within agriculture or distort commodity and livestock prices and markets.

And I appreciate the discussion on the GIPSA rule. That is something, of course, that has generated a lot of discussion in the livestock industry in my state and something that as USDA moves forward I hope that they will seriously consider the unique comments received on this rule, perform its own economic analysis of the impacts of the rule and work with those on both sides of the issue surrounding it, the rule, to come up with a final rule, and obviously one that it is not going to please everybody, but hopefully is workable and does not create administrative burdens or result in a lot of unnecessary litigation and the loss of livestock industry jobs.

Mr. Glauber, if I could, I wanted to ask you a question to come back to biofuels. I appreciate that in your testimony you mentioned the dried distillers grains, which is byproduct of ethanol, can be substituted for corn and other feed grain ingredients in livestock rations.

In my opening statement for today's hearing, I mentioned just previously here that all sectors of the ag community need to be treated equitably by Federal farm policy. Would you agree that in this whole food versus fuel debate that goes on around the country, that USDA could and should be taking a stronger stand and publicizing the fact that 17 pounds of DDGs derived from each bushel of corn made into ethanol significantly offset the corn usage dedicated to ethanol production?

Mr. GLAUBER. Senator, there is no question that the distillers dried grains and other byproducts have been very, very important additions to the feed market, and this has evolved. Certainly, we have seen this rapid increase in corn use for ethanol and as a consequence a rapid increase in distillers dried grains.

I think the market has taken a little bit of time to adjust. You might remember initially most of this was being exported just because it just was not showing up in feeds. Now certainly, it does better with beef and hogs, but we are seeing it now where we are seeing it show up in feeds pretty much everywhere in the country now and is a very, very important component.

And we do—you know. I think it was mentioned in my testimony about the importance of the DDGs. I know the Economic Research Service puts out a table every year on feed, various feed stuffs as well.

Senator THUNE. I raise that point simply because critics of corn ethanol claim that 38 percent of corn usage is dedicated to ethanol production, which is not necessary accurate due to the amount of DDGs that are consumed as livestock feed.

Most would agree that the so-called ethanol push began back in 2002. Since 2002, according to the USDA, corn harvested acres increased from 76.5 million acres in 2002 to 87 million acres in 2010, which is an increase of 10.5 million acres, a production increase from 9 billion bushels in 2002 to 12.4 billion bushels in 2010, which is an increase of 3.4 billion bushels of corn. How much of this increased corn acreage would you attribute to the growth in the use of ethanol.

Mr. GLAUBER. Well, I think the question that I just answered a little earlier; I think that most of that increase has certainly been due to ethanol production. We have seen again the increase from ethanol use from about 1 billion bushels for corn use for ethanol, from 1 billion to the current 5. If you look at that, most of that increase has come through both increased area and increased yields.

Senator THUNE. What is the average according to your estimations, bushels per acre, today?

Mr. GLAUBER. In terms of yields?

Senator THUNE. Yes.

Mr. GLAUBER. If we are looking at trend yields, somewhere, 162 or so.

Senator THUNE. Where do you think that number is 10 years from now?

Mr. GLAUBER. Well, again, if we are looking at—I should look behind me to see my friend who has the baseline here. But we are looking at roughly a 20 bushel per acre increase. Essentially, our baseline has an increase, again a most increase, of around 1 percent or so, 2 percent. We are looking at about a 2 bushel increase per year.

Senator THUNE. But you think that yields are going to continue to increase and technology is going to continue to improve?

Mr. GLAUBER. Right.

Senator THUNE. And production in this country.

Mr. GLAUBER. Right.

Senator THUNE. Yes, I do not disagree with that. I think that much of the success that we have seen in the last 30 or 40 years in agriculture. We have been able to become much more efficient and get a lot more production for what we invest in it. So I suspect that that is going to continue, and I think that the issues that we have today, this food versus fuel debate, probably 20 years from now are going to look a lot different because of that.

But I see my time has expired. Madam Chairman, I thank you.

Chairwoman STABENOW. Thank you very much.

Because of the interest on the Committee and the members, we are going to do a second round of just two minutes if anyone wants to ask an additional question.

And let me just ask one question, Mr. Glauber, and that relates to trade, and trade barriers more specifically, because I am very concerned that we continue to have many countries that have unscientific trade restrictions on livestock exports—Taiwan and beef, as we know; China and beef; Russia and pork. And the USTR's 2011 report on SPS measures facing U.S. producers and products is over 100 pages long.

So in your view, what countries with unscientific SPS restrictions present the greatest potential for U.S. livestock exports in the future, and what is the USDA doing to help our livestock producers gain access to those markets?

Mr. GLAUBER. I think in general, and I will try to be brief here, certainly the growth markets have been Asia, and I think that in particular markets like China, Korea, Taiwan, Japan. I mean that is where we have seen the growth. Japan, less so now, of course, because it is a developed country.

But also, I think people in a long run look at countries like India as potential, certainly for poultry, and let me bring in another livestock product—dairy.

But I think that what is needed is engagement, bilateral, as it takes a lot of work, and then through multilateral. I think trade agreements are very important things here. Now again, it is one thing to work on a tariff and lower a tariff. That is helpful, but it does not help you if you still have some SPS barrier or something like that or a technical barrier to trade. And that best can be done I think bilaterally, and that just takes a lot of work.

Chairwoman STABENOW. I agree with that. I also would just say we need to keep pushing on those trade barriers as we are moving forward and looking more broadly at trade.

Senator ROBERTS.

Senator ROBERTS. Dr. Glauber, I know that you are an economist, and thank you for your contribution.

Thanks to all of you, and your dedication and your hard work.

I want to follow up on the commentary by Senator Johanns. It troubles me. In April, there was a meeting, and Joe, you were there and the Office of General Counsel, others, and the question was raised in regards to the GIPSA rule as reflecting just precisely what the Congress did not want in regards to congressional intent. And I think we were told at that particular that the face of the statute was such that congressional intent did not matter. Now that is the case.

I guess my question to all of you, and I am not going to have you answer this because it is not within your purview and not your pasture. But if that is the case, do conferences matter between the House and Senate? Do amendments matter? Do these hearings matter? Do we matter? Do votes matter in regards to what was passed, what was defeated?

For the life of me, I do not understand the Office of General Counsel or whoever spoke at that particular meeting, or whatever group of lawyers spoke at that particular time, telling us that we do not matter in regards to congressional intent because the face of the statute was such that we did not matter. I tell you the face of the statute is an ugly statute.

Now I do not know if any one of you want to try that one. That is just a speech by me with about 23 seconds left to go, but that makes me hot. And we got enough lawyers down there that we can at least have some maybe come up and visit with us personally, but perhaps in a hearing, to explain to me why GIPSA rules are passed that are not in terms of congressional intent, and the congressional intent, we are told and staff is told that we do not matter. That is not right.

I think I will leave it at that.

Chairwoman STABENOW. Thank you very much.

We will turn to Senator Grassley.

Senator GRASSLEY. I do not want to ask a question, but I think more take advantage of an opportunity to comment on something that Senator Thune just brought up, and not to find any fault with any of the answers that were given, but to follow on and say that 38 percent that Senator Thune talked about really becomes about 20 or 23 percent of the corn crop that is actually used for ethanol.

And that brings me to some comments that the next panel is going to give. I read here about people that still think corn prices in 2006 ought to be $2.50 because by 2008 it costs the industry $1 billion more to feed them. But I just wonder if the people coming up on the next panel realize you cannot raise corn for $2.50 a bushel. You know. Do you want corn or do you not want corn? It costs about $4 or a little bit more to raise corn.

Then I wonder if they realize only about 3 percent of the coarse grain worldwide is used for ethanol, just 3 percent. And we are in a worldwide market of grain, I hope everybody understands. There has got to be some realism brought to this.

And then finally, there is a statement made that finally we have to realize that ethanol is dividing rural America. You know, dividing farmers. Well, it is people like this that do not know the facts about ethanol that are really dividing rural America.

So I want the record to show that I take great exception to the testimony that badmouths ethanol when, quite frankly, you have got a choice between having ethanol and having higher grain prices because the more market for corn, or maybe you want to pay out billions and billions of dollars for farmers in the safety net for the farm program.

Thank you.

Chairwoman STABENOW. Thank you very much, Senator Grassley.

Senator Baucus, welcome and you are welcome to—we are doing a two-minute round, but you are certainly welcome to take five minutes if you would like to do that.

Senator BAUCUS. Thank you, Madam Chairman.

Basically, I am most concerned about the availability of brands. Can States, if they want to use brands as a system to identify the cattle, use brands? Will that be recognized by USDA and by other States?

We have a very steep history of brands in our State, in Montana. I come from a family ranch. Our ranch brand is Bar O Wine Glass. That is Bar Over Wine Glass. And we also have Flying V.

We are a state that pretty much utilizes brands. Agriculture is our number one industry still, and the livestock side drives much more revenue even than the grain side. So can somebody answer my question as to the degree to which Montana will be able to use brands as an international ID system?

Dr. PARHAM. Thank you, Senator Baucus. And indeed, Montana will, and you specifically will be able to, continue to use your brand.

What we have done with the new traceability rule is look at what some States were doing traditionally. With the flexibility and the transparency we have going forward there are, I believe, 14 States that currently use the brand that will still be able to use that brand going forward, particularly if those States can agree for any animals that are moving in interstate commerce, they will be permitted to use that brand.

Senator BAUCUS. Is there going to be any concern about that? Is that going to be clear? Is there any ambiguity?

Dr. PARHAM. We do not believe there is any ambiguity, and we have taken great strides to educate through the various meetings that we have had with producers, with States, with tribes, to make it very clear because they are giving us much of the input that we are using to go forward with the traceability rule. And we believe that it will be very, very clear, abundantly clear, that brands will be permitted as we move forward.

Senator BAUCUS. Good.

Thank you, Madam Chairman. I have lots of questions, but frankly, I am more interested in the next panel. So, thank you very much.

Chairwoman STABENOW. Thank you very much.

Senator Boozman?

Senator Johanns?

You are passing to Senator Johanns?

Senator JOHANNS. I will go next?

Senator BOOZMAN. No. Well, I will go and then——

Chairwoman STABENOW. Okay. Terrific.

Senator JOHANNS. Is that all right, Madam Chair?

Chairwoman STABENOW. That is absolutely fine.

Senator JOHANNS. Dr. Glauber, as you know, the issues that are being analyzed in the GIPSA rule, in the proposed GIPSA rule, have been studied on many occasions by the USDA. In fact, at least in one area, there was a very a very extensive study that came out right about the time that I went back home to run for the Senate. Are those studies being factored into your analysis, your economic analysis on the GIPSA rule?

Mr. GLAUBER. Yes, absolutely. The study in particular that you are mentioning was often called the RTI study. It was a multimillion dollar study. As you remember, it was contracted out to 30-some odd researchers, extensive work done on beef, pork and lamb, if I am not mistaken. We have looked at—we have been spending a lot of time with that study to look at the economic value of alternative marketing arrangements, which was one of the focal points of that study.

Senator JOHANNS. Let me ask you again just a really direct question. My preference always is to be direct. At the end of all of this, let's say you do your economic analysis and it is contrary to the position that you have heard from the cage, do you feel you will have the ability to lay that down and articulate your position on that rule?

Mr. GLAUBER. Senator, the Secretary said to me he wanted me to have—he was having a hands-off policy, that he was going to allow me to do the analysis, and that is what I intend to do.

Senator JOHANNS. Good for you.

Thank you, Madam Chair.

Chairwoman STABENOW. Thank you very much.

And now we will return to Senator Boozman.

Senator BOOZMAN. Thank you, Madam Chair.

I think the lesson that we have learned today is if you want to not have to answer a lot of questions and be safe with your testimony you need to be up here with Dr. Glauber in the future.

[Laughter.]

Senator BOOZMAN. I would just like to add, and you can comment, Dr. Glauber. But as an economist, the GIPSA rule, you know we are seeing so much uncertainty in the economy right now. People really do not know what the rules are going to be, regardless of the profession that you are in. I am in health care. You know, it is just up in the air.

I guess I would say that with this rule, the proposed rule, potentially being so far-reaching. We have established that our producers, our processors, they are not doing great. They are trying to hold, to tread water. With the high costs that are going to come up in feed stock—you name it—the energy costs, all of these things that are pounding away on them besides the flooding, the drought, and this and that. It just seems like that the idea of putting such a far-reaching thing, creating more uncertainty for the producers, the processors, that that is going to be bad for them down the line, as far as the uncertainty.

Can you comment as to what that will do, short-term, to the economy of that group because of that? I mean is that a reasonable——

Mr. GLAUBER. What I would say, and it addresses your point, is I think that certainly you look for regulations to provide clarity so that the environment in which you are going to do your economic dealings, et cetera, are very clear, how to work through this. And I think that is the challenge of a regulation like this is to provide that.

A lot of the comments, in particular for those who oppose the rule, opposed it because of the regulatory uncertainty. That is the risk of litigation, et cetera, that they thought the rule might impose. Certainly, we are looking at those comments as we do these analyses.

Senator BOOZMAN. Thank you, Madam Chair.

Chairwoman STABENOW. You are welcome.

And thank you very much to each of you. We appreciate your service.

Senator BAUCUS. Madam Chair, if I might just be brief.

Chairwoman STABENOW. Yes, Senator Baucus.

Senator BAUCUS. I want to recognize Chief White with NRCS, from Montana. He spent several years in Montana, where he was a State conservationist and did a great job.

I think, Chief, are you involved in our efforts in Montana to protect the sage grouse so it is not listed?

Mr. WHITE. Yes, sir, deeply.

Senator BAUCUS. Okay. Thank you very much.

I might say that we have a lot of sage grouse in Montana, but like a lot of the Endangered Species Act, it is quite controversial. But thank you for your efforts. I think we have got it managed up to this point, but I want to thank you.

Thank you.

Chairwoman STABENOW. Thank you very much. And again, thank you to each. We will follow up with any questions that members have in writing, and we would ask our second panel to join us at this time. Thank you.

Welcome. We appreciate all of your joining us today for this very important topic. We have your written testimony. We will ask you to keep your testimony to five minutes as an opening statement so we have enough time to ask questions.

And I want to start by introducing our first panelist, Rick Sietsema. We are so pleased to have you here, Rick, of Sietsema Farms in Allendale, Michigan. Rick and his brother, Harley, operate a turkey and swine farm, along with a feeding/manufacturing facility. The Sietsema Farm family raises 1.2 million turkeys and over 700,000 hogs annually. The farm was also instrumental in creating the Michigan Turkey Producers which is a local co-op in Michigan.

So, welcome. Glad to have you here.

And then secondly, our second panelist is Mr. Dennis Jones. Mr. Dennis Jones is a fourth generation farmer who operates Jones Farms in Bath, South Dakota. Mr. Jones is part of the James Valley Pork Cooperative as well as a member of the South Dakota Farmers Union. He has also been on the Board of Directors of the National Corn Growers Association, CoBank and the South Dakota Wheat Cooperative.

And I am going to turn to Senator Roberts for our next two introductions.

Senator ROBERTS. Well, thank you, Madam Chairwoman.

It is a pleasure to welcome Steve Hunt, the CEO of U.S. Premium Beef back to the Committee. He was one of the founders of U.S. Premium Beef way back in 1996, which today is one of the great success stories of the beef industry. The USPB producer membership is the majority owner of National Beef Packing Company, the nation's fourth largest beef processor, headquartered in Kansas City with operations in Dodge City.

So, welcome back, Steve. Thank you for your partnership in agriculture, all of your suggestions and your counsel.

I would also like to welcome Frank Harper. Frank is a farmer and beef producer from Sedgwick, Kansas. He is one of our what we call up-and-coming leaders in Kansas. He will be the President of the all-powerful Kansas Livestock Association next year.

Welcome, Frank. When you are riding point on that outfit, always make sure you check over your shoulder just to make sure they are still there.

Chairwoman STABENOW. Okay. And we would also like to welcome Mr. Michael Welch. Mr. Welch is the President and CEO of Harrison Poultry. Mr. Welch has served on the National Chicken Council's Board of Directors since 2002, was elected Chairman of the National Chicken Council in October, 2007, serves as Chairman and Director of the Georgia Poultry Improvement Association and was Director of the U.S. Poultry and Ag Export Council International Poultry Development Program.

So we welcome you as well.

And I will turn to Senator Baucus for the last introduction

Senator BAUCUS. Thank you, Madam Chairwoman.

Last, but not least, Hans McPherson is from Stevensville, Montana. For those of you who do not know, Stevensville is in the beautiful Ravalli County. A lot of people move to Stevensville and throughout Ravalli County. In fact, a lot of Californians move to Ravalli County, matter of fact.

It is diversified farm that Hans has operated since 1953, and a long list of accomplishments, and I will just name a few—many years, Vice Chairman of the Ravalli County Service Agency, over the years 2006 to 2009, Chairman of the Board of Directors of the Supply Ditch Association in his home town, and Hans is currently serving on the Board of Directors with the Montana Farm Bureau and Montana's Farm Service Agency State Committee.

We bumped into each other at the airport. What is today? Tuesday. Yesterday morning, and had a little chat in Bozeman, Montana.

It is good to see you, Hans, and thank you very much for taking the time.

Chairwoman STABENOW. Well, thank you very much to each of you, and we will start with Mr. Sietsema. Welcome again.

STATEMENT OF RICK SIETSEMA, FARMER, SIETSEMA FARMS, ALLENDALE, MI

Mr. SIETSEMA. Thank you. Good afternoon, Chairwoman Stabenow, Ranking Member Roberts and the members of the Committee. I am Rick Sietsema, Partner and CFO of Sietsema Farms and our related businesses of Allendale, Michigan. I want to thank the Committee for inviting me to discuss the state of the U.S. livestock industry, and today I will be speaking on behalf of Sietsema Farms and the National Turkey Federation. The National Swine Producers are also in support of my testimony.

Sietsema Farms production facilities are located in West and Central Michigan. We are a multigenerational family-owned business that has its roots deeply embedded in agriculture. As a member of the Michigan Turkey Producers Co-Op, we raise nearly a quarter of 4.6 million turkeys produced and marketed both domestically and internationally. As a whole, Michigan Turkey Producers has an economic impact in Michigan of over $120 million.

Sietsema Farms and partners are also involved in the swine industry as a genetic producer of Newsham Genetics and supplier of Newsham Genetics across the Midwest. The economic impact of Michigan and neighboring States and Ontario exceeds $135 million, plus that of many, upwards of 100 family-owned and operated farms which we contractually grow and finish swine with.

With our agricultural focus at Sietsema Farms, we have been proactively working with NRCS and environmental programs. We have enrolled our 1,500 acres and additional conservation practices in the Conservation Security Program, and an additional 13 acres in field buffer strips in the Conservation Reserve Program, and in the EQIP program we have utilized funds to construct several manure storage facilities.

In the near future, our turkey litter will be delivered to our new state-of-the-art biomass gasification facility. With this facility, the turkey production will be a closed environmental loop, generating our electric and gas needs for our feed production and our feed mill, and greatly reducing our carbon footprint.

USDA Rural Development has been a significant resource contributing to our ability to invest into agriculture. When our market for turkeys closed in the late 1990s, USDA Rural Development loan guarantees made it possible for us to get access to capital to facilitated the construction of both a turkey processing plant and a further processing and cook plant. USDA Rural Development was also significant in our ability to fund the gasifier facility mentioned earlier, which will be the first of its kind in the world.

One challenge currently facing our livestock industry is production costs, as mentioned earlier by USDA. Feed is the most important of these. With the current runup in grains due to the short supply caused by both production and by the ethanol mandate, that has put us in uncertain terms for the livestock industry.

Our biggest reason for the industry not being more optimistic, facing some of the stronger prices that we are currently seeing with the increase in turkey and pork supply, is to these uncertain input costs. Corn and other feed ingredients have risen to new levels, corn going from $4, $4.50, $5 to $7 in barely a year, and in this past month surpassing the $7 mark. What the livestock industry is looking for is reform in the existing ethanol policy, a safety net that ensures proper corn prices and availability, with less volatility in the future.

Another challenge today is the marketing rule proposed last summer by USDA's GIPSA. First is the competitive injury position, which will make it easier to sue for regulatory action against livestock and poultry processors. Second is the provision that requires processors to virtually guarantee growers can recoup an 80 percent of any capital investments. The third is a series of provisions that would discourage competitive contracts in which growers can receive premiums or deductions based upon the performance of the livestock in their care.

Studies have shown the negative impacts of this GIPSA rule in excess of $360 million annually in the turkey industry and more than $400 million in the pork industry. A study conducted by John Dunham and Associates showed job losses of 104,000 and a reduction in national gross domestic product by $14 billion annually.

How can government help? Though most people in the livestock industry prefer minimal government involvement, there are ways that you have been helping and there are ways that you can continue to ensure the economic viability of our industry.

Continued funding of EQIP is imperative for our industry's ability to implement many conservation practices. We are pleased that the 2008 Farm Bill kept 60 percent of these funds for animal agriculture and would hope that these funds would continue in the next Farm Bill.

Flexibility to the existing EQIP program for innovative environmental stewardship programs and projects would be a positive development, making it easier for livestock and poultry farmers to access these funds. Farms should not be restricted to the access of these resources based upon size, financial benchmarks or animal units.

As a farmer and as American farmers trying to supply food stuffs for the world population as we move forward, we need to have these tools available to us.

In Michigan, we have a MAEAP program of which more than 1,000 farms have been MAEAP-verified and another 10,000 are in the process. Through that process, in the seven years Sietsema Farms has been involved in the MAEAP program, we have implemented many projects with NRCS and MAEAP, including field buffer strips, filter strips, grass waterways, conservation tillage and residue management, shallow water wildlife projects, nutrient management, irrigation management, manure storage facilities and fuel security.

Thank you for the opportunity to discuss this with you as a Committee, and I will look forward to your further questions.

[The prepared statement of Mr. Sietsema can be found on page 90 in the appendix.]

Chairwoman STABENOW. Thank you very much for coming.

Mr. Jones.

STATEMENT OF DENNIS O. JONES, PORK PRODUCER, SOUTH DAKOTA FARMERS UNION, BATH, SD

Mr. JONES. Chairwoman Stabenow, Ranking Member Roberts and members of the Senate Committee on Agriculture, thank you for inviting me to testify today.

I am a fourth generation cattle and hog operation in South Dakota. Our farm is also part of James Valley Pork, a cooperative. Our cooperative finishes 40,000 hogs annually. By being part of a larger group of producers, we had hoped to find power in numbers to get better prices for our hogs. We found that the collective marketing power of 40,000 hogs was not enough to get a fair price.

Rural America has lost more than 1.1 million livestock farms in the last 30 years. In 1980, there were approximately 1.3 million beef cattle operations across the country, but in 2010 there were only 742,000. This is a decline of approximately 42 percent.

In swine, the reduction has been even more dramatic. In 1980, there were 660,000 hog farms, but in 2010 there were only about 67,000 left. That is a 90 percent drop.

As more and more farms and ranches have closed, concentration among livestock producers has become a huge issue, not just for prices but for food safety as well as security. Today, there are few large buyers of livestock. The top 4 packers have control of 81 percent of the cattle for slaughter in the U.S. The top 4 swine producers control about 65 percent of the hog sales. These statistics make it clear that concentration is on the rise in the livestock marketplace and competition is declining.

A year ago, USDA proposed rules to address related anti-competitive practice in the livestock industry. GIPSA has received approximately 60,000 comments on the proposed rule. The USDA is still reviewing these comments and conducting an economic study before issuing the final rule.

The GIPSA rule will help ensure farmers transparency, protection and bargaining rights for producers. This will help restore at least a degree of competition in agricultural markets. A lack of market power is just one of the reasons there are fewer livestock farmers and ranchers.

The reforms in the GIPSA rule are long overdue. They respond to the criticism that has come from the farm groups, the Government Accountability Office, the USDA Inspector General, about the lack of enforcement of the PSA. The rule is more important today than 80 years ago. The proposed rule defines and clarifies terms in the PSA in order to make enforcement more effective and to provide clarity to all players in the livestock market.

Critics of the proposed rule argue that its definition of unfair preference is too broad and therefore will prohibit buyers from paying a premium to livestock producers who produce a premium product. This is not the case. The rule simply requires that packers or processors explain why they provide special pricing and contract terms to certain producers.

The GIPSA rule will reduce litigation in the industry by clarifying the PSA. The GIPSA rule, also known as the Farmers' and Ranchers' Bill of Rights, needs to be implemented without further delay.

The 2008 Farm Bill made a critical and greatly appreciated investment in conservation programs. One program that is popular with livestock producers is the Environmental Quality Incentive Program, or EQIP. Through EQIP, the Natural Resources Conservation Service provides low-cost share of financial and technical assistance to farmers and ranchers to install and maintain conservation practices. Conservation practices like EQIP give farmers and ranchers the tools necessary to sustain the natural resources we depend on.

While producers face many challenges in today's economy, they also have many opportunities to benefit. This hearing is an opportunity for all aspects of the livestock sector to be reviewed. As such, I urge the Committee to consider the possibility of incorporating a grain buffer stocks program, also known as a reserve, in the next Farm Bill. Livestock producers ought to be especially interested in a mechanism to better control the volatility of feed costs. That would make livestock production more conducive to longer-term investment. It would help the next generation of farmers and ranchers get started.

Thank you for the opportunity to visit with you and share my concerns. Please refer to my written testimony for further detailed information, and I welcome any questions.

[The prepared statement of Mr. Jones can be found on page 70 in the appendix.]

Chairwoman STABENOW. Thank you very much, Mr. Jones.

Mr. Hunt.

STATEMENT OF STEVEN D. HUNT, CHIEF EXECUTIVE OFFICER, U.S. PREMIUM BEEF, LLC, KANSAS CITY, MO

Mr. HUNT. Chairwoman Stabenow, Ranking Member Roberts, members of the Committee, I am Steve Hunt, CEO of U.S. Premium Beef.

Formed in 1996, our company is the producer and majority owner of National Beef Packing Company. The intent of our founding members was to create a company that would link producers and consumers through ownership of meat processing and marketing. Over 21 producers from 36 States have marketed cattle through our company. We have paid more than $183 million in premiums to those producers. Those premiums came as value-based premiums through our many programs.

I would like to address two issues that are critical to the U.S. beef industry—trade and the GIPSA rule.

Much of the success in 2010 and in the future can be tied to our export markets. Last year, the industry set a record for the value of beef exports of $4 billion. That equated to $153 per head.

Given the international consumer demand for our products, it is critically important that Congress pass free trade agreements with South Korea, Colombia and Panama as soon as possible. Yearly exports of U.S. beef to South Korea could increase to as much $1.8 billion if this agreement is fully implemented. Without the FTA, our access to their 49 million consumers will decline as South Korea increases trade with other countries with FTAs.

It is equally important that we continue to work with getting Japan to move from accepting cattle of less than 21 months of age to at least 30 months of age, which could add $1 billion to our exports.

Next, I would like to talk about the proposed GIPSA rule. First, the proposed rule calls on USDA to scrutinize transactions where producers are paid more than an average price. Due to our value-based strategy, every lot of our cattle will fall under this scrutiny. A burdensome requirement to present private profit and loss information to a government agency on every single lot of cattle sold will be very burdensome.

As a result, variable pricing necessary to attract cattle to fit our value-based programs—those are programs such as natural cattle, age and source-verified and branded--will be replaced with potentially a single-price commodity bid. The method used by USDA to administer such practices is critical, but to date unclear.

We believe the unintended consequences would be especially harmful to small producers the rule is purported to support. Our records show that producers of all sizes benefit from our value-added programs. However, it is our smallest producers that have earned the largest premiums.

Here are the facts: Through 2010, we have purchased more than 8 million head of cattle through our program. In analyzing the top 25 percent of those cattle delivered since we began, the group of producers by segment that delivered the highest premiums were those that delivered less than 250 cattle per year, at an average premium of $63.48 per head. The second highest, those that delivered less than 100 cattle a year earned the second highest premium.

Based on our experience, I believe this rule will burden the small producers who rely on these value-based programs to compete with the economies of scale that large producers enjoy.

The second issue is lowering the legal threshold requirement from proving harm to the marketplace to harming an individual. Proponents of this proposed rule believe that if a deal is not reached in the marketplace between a cattle producer and processor the producer should have the right to sue the processor instead of the current threshold, which holds substantial legal precedent that the processor is liable if the actions were actually harmful to the entire marketplace. In other words, if negotiations fail between a buyer and seller, the producer could make a claim against the processor under this proposed rule.

The broad and general nature of the rule opens the door for frivolous lawsuits. If a single producer can sue based on their thoughts of what is unfair, it is likely that price differences based on value-added characteristics will continue and we will return to a commodity one-price-fits-all system. If that happens, both producers and consumers, who by the way have demanded these programs, will lose.

Proponents to the rule responded to these concerns by asserting well, you know, processors get their chance to defend themselves in court.

Well, Madam Chairwoman, that is just simply not acceptable. When we are sued, our employees do not sleep, our bankers do not sleep, our investors do not sleep and I do not sleep. But more importantly, our customers do not sleep. They depend on us to supply products to their shelves at night, so when they open their doors in the morning they are open for business.

The increased threat of frivolous lawsuits that this proposed rule will create is a risk no business can withstand.

And by the way, this will change our behavior, in answer to the question earlier.

In closing, I urge the Committee to insist on another comment period once the pending economic analysis is completed. This allows additional input on the rule to identify changes that will minimize the damage.

I would encourage the Committee to make sure we put ourselves in a position to compete for export business. At the same time, I would ask you to scrutinize proposed government regulations that will result in rolling back the vast improvements that have helped make U.S. beef the product of choice, not only in the United States but around the world.

Thank you.

[The prepared statement of Mr. Hunt can be found on page 63 in the appendix.]

Chairwoman STABENOW. Thank you very much.

Mr. Harper.

STATEMENT OF FRANK HARPER, PRESIDENT–ELECT, KANSAS LIVESTOCK ASSOCIATION, SEDGWICK, KS

Mr. HARPER. Madam Chairman, Senator Roberts and members of the Committee, my name is Frank Harper, and I have a cow-calf and cattle backgrounding and a farming operation near Sedgwick, Kansas. I am President-elect of the Kansas Livestock Association. I serve on the Board of Directors of the National Cattlemen's Beef Association, of which KLA is an affiliate. I am very pleased to be here today.

KLA is a trade organization representing nearly 5,500 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations. The beef industry is a key segment of the Kansas economy, and the Kansas beef industry is a major piece of the U.S. beef industry.

KLA members believe the livestock industry is best served by the process of free enterprise and free trade. Even with its imperfections, free trade is relatively more equitable than regulated and subsidized markets that tend to retard innovation and distort production and market signals. KLA members oppose attempts to narrow the business options or limit the individual freedom of livestock producers to innovate in the management and marketing of their production.

KLA and NCBA continue to strongly oppose the proposed regulation commonly referred to as the GIPSA rule issued by the Grain Inspection, Packers and Stockyards Administration last year. In short, U.S. producers are concerned the GIPSA rule would greatly expand the role of government in marketing livestock and eliminate producers' ability to market livestock, to capture the benefits of their efforts to improve the quality of their livestock.

Over the years, I have invested in genetics that have helped me improve the quality and consistency of the calves I produce. To capitalize on this investment, I retain ownership of the majority of my calves and feed them in a commercial feed yard. This allows me to market my calves through U.S. Premium Beef as certified Angus beef and other programs that allow me to earn premiums for my high quality cattle.

The GIPSA rule would require purchasers of my cattle to justify paying more than a standard price for my livestock. If my competitors do not agree with the justification the packer offers for paying me more than the standard price, the packer may be sued.

Common business sense tells me it would not be long before the packer no longer would be interested in our agreement. This means I will be back to selling cattle for the same average price as everyone else. My investment in superior genetics would be lost.

It is clear to us the proposed rule will make forward contracting and other alternative marketing arrangements subject to so many regulatory hurdles and legal risks that the effect, whether intended or not, is the elimination of these marketing options. Without the consistent supply provided by these arrangements, processors likely will be forced to reduce or eliminate branded and natural beef programs that have helped lead a resurgence in beef demand.

The rule also goes far beyond the intent of Congress. Members of this Committee will recall several of the proposals contained in this rule were either defeated or withdrawn during consideration of the last Farm Bill. We strongly urge you to take action to prevent the implementation of this rule.

Another area of concern is country of origin labeling. Recent reports indicate the World Trade Organization will rule in favor of Canada and Mexico in their complaint against the U.S. mandatory COOL program. It is in the interest of the U.S. beef industry to resolve this dispute before retaliatory action is taken. KLA strongly encourages the inclusion of language in the next Farm Bill to address the WTO finding.

For additional issues, including comments regarding the next Farm Bill, I would refer you to my written comments.

Again, thank you for the opportunity to testify here today, and I welcome any questions when the time is appropriate. Thank you.

[The prepared statement of Mr. Harper can be found on page 54 in the appendix.]

Chairwoman STABENOW. Thank you very much.

Mr. Welch.

STATEMENT OF MICHAEL WELCH, PRESIDENT AND CEO, HARRISON POULTRY, INC., BETHLEHEM, GA

Mr. WELCH. Good afternoon, Chairman Stabenow, Senator Roberts and members of the Committee. Thank you for the opportunity to participate in this important and timely hearing on the issues impacting the state of livestock and poultry and on behalf of the National Chicken Council. My name is Michael Welch, and I am President and Chief Executive Officer of Harrison Poultry in Bethlehem, Georgia. I have been President of Harrison Poultry since 1992.

Harrison Poultry is a small, privately held, 52-year-old company operating 1 slaughter plant, producing a variety of products with more than 1,000 outstanding employees. Over 125 family farmers contract to grow broilers, and an additional 40 family farmers contract to produce hatching eggs for the company-owned hatchery. Each week, Harrison Poultry processes more than 6 million pounds of broilers on a live-weight basis. Some of Harrison Poultry growers have been growing broilers since Harrison Poultry became vertically integrated more than 40 years ago, even though the company contract is considered a flock-to-flock arrangement.

Madam Chairman and Committee members, as you can appreciate, there are many issues impacting the state of the chicken industry as I speak to you today. The main issues of concern to the poultry industry:

Number one is the corn-based ethanol policies and rules need realignment. The policies and rules of the game for corn-based ethanol must be rebalanced and the playing field must be leveled to permit chicken producers and other animal agriculture producers to more fairly compete for the very limited supplies of corn this year and most likely for the next few years. For more than 30 years the ethanol industry has had an opportunity to learn how to compete in the marketplace. It is now time, actually well beyond a reasonable time, for ethanol manufacturers to move beyond government subsidies, federally mandated usage and market protection from foreign competition.

Broiler companies since last October, when the sudden, unexpected runup in corn and other feed ingredient costs incurred, have tried to weather the storm of very high, volatile corn prices, but now companies can no longer withstand the storm. Companies are trimming their production plans which means growers will receive fewer chicks to grow into market-ready broilers and processing plant work shifts are being reduced or even eliminated. With less work time, more and more workers are being laid off.

A broiler company in Georgia just announced 300 workers will no longer be needed.

Also, this month a fourth generation family broiler company in Delaware filed for bankruptcy protection while it works to secure another owner for its assets.

Further, another company in Arkansas last week announced plans to consolidate two processing plant operations into one location and will similarly combine two hatcheries into a single facility. This consolidation will result in 223 jobs being eliminated. The company, in its announcement, indicated that eliminating these jobs will give it a better chance to survive.

Earlier this year, a third generation broiler company with a complex in North Carolina and another complex in Arkansas succumbed to the financial stress of high feed costs. The result in this case is that its complex in North Carolina is now owned by a foreign company and the Arkansas complex is now owned by another broiler company that not only had the borrowing capacity to purchase the assets but reserves that will undoubtedly be necessary to carry financial losses until the broiler market improves to at least a break-even point.

Banks and other lending institutions are telling these companies enough is enough, meaning sell your assets and repay your outstanding debt. I receive inquiries weekly, if not more often, from financial firms, broiler companies and others inquiring about my company's interest in acquiring troubled assets in the broiler industry. What some analysts say about the broiler industry of 10 companies in 10 years may become a reality and perhaps sooner than in a decade.

Although the Volumetric Ethanol Excise Tax Credit for corn-based ethanol is scheduled to sunset at the end of this calendar year, along with the import duty on ethanol, a sunset not so far on the horizon would be prudent. An Iowa State University study determined that VEETC results in 4 percent more ethanol, or 500 million gallons, this year. This means that the VEETC costs about $11 per gallon for that additional ethanol.

The provision of the Energy Independence and Security Act of 2007 that generates the real demand for corn-based ethanol is the Renewable Fuels Standard. The RFS is essentially an immovable object even when there is an irresistible force. That is when the shortfall in corn supplies, as is in the current situation, RFS continues to be immune to the crisis in poultry and livestock. A more realistic trigger mechanism is needed to adjust the RFS.

Madam Chairwoman, that is our number one issue.

Our number two issue is the GIPSA that has been well stated here already in terms of the reasonable step to call a timeout and take over as the intent of the Congress we do not feel has been met by the agency, and then the three pending free trade agreements we would hope that Congress would take action.

The National Chicken Council appreciates the chance to present here, and improving the state of the poultry industry not only helps poultry companies and poultry farmers, but more importantly will allow consumers of poultry products to continue to enjoy an ongoing adequate supply, appropriately priced, of animal protein at reasonable prices.

[The prepared statement of Mr. Welch can be found on page 101 in the appendix.]

Chairwoman STABENOW. Thank you very much.

Mr. McPherson.

STATEMENT OF HANS MCPHERSON, RANCHER AND MEMBER, MONTANA FARM BUREAU, STEVENSVILLE, MT

Mr. MCPHERSON. Thank you, Madam Chairwoman Stabenow and Ranking Member Roberts and members of the Committee for

the opportunity to travel to Washington, D.C. today and participate in this hearing and voice my concerns about agriculture. I would also like to thank the man all Montanans know simply as Max for the invitation to come here.

Mr. BAUCUS. Thank you, Hans. Appreciate that.

Mr. MCPHERSON. You are welcome.

I would like to ask you to look at my face. I want you to see the face of a 58-year-old American family farmer. I am the median age of the American family farmer.

I am, by no means, rich. I do not own a trophy ranch. I do not live in a trophy house or drive a trophy pick-up. I feel I am a pretty typical family farmer.

I get out of bed each day with more to do than I will ever get done and often have to figure out how to do more with less, prioritizing what can wait and what needs to be done right now.

I go to bed at night without the aid of sleeping pills but with a prayer and a belief that better days are ahead. Many people want to refer to the good old days. I have never been more optimistic about the future of farming. That is why I came here today to testify and to answer your questions.

When Senator Baucus's staffer, Alexis Taylor, called and extended the invitation to me, I did not immediately jump for joy and say oh, yes, I will hurry right over. I first had to figure out how I would pay for the trip, and did I feel, did I really feel that I would make an impact on you. My wife and I decided that it was worth the investment of time and money to give you the opportunity to hear from a real down-to-earth Bitterroot farmer.

I feel that even though you hear from highly polished lobbyists with very elegant speeches on a daily basis, in reality, you probably are not much different from me and many other Americans who are tired of the lobbyists and activists. I do not want to totally downplay the importance of lobbyists because, in reality, organizations like the Farm Bureau and others are often the single voice of thousands of American farmers like myself, banded together to be heard.

While I am very passionate about the future of agriculture, I also realize in reality that rural America is under attack by people who often have little understanding about the life and struggles on the farm. With issues like animal rights, horse slaughter, farm labor, banking, the American family farm needs your help. I also realize that there is great need to trim budgets. So as you and your staff, Senators, take the task of writing a new Farm Bill, it is with my hope that you will be able to protect those of us who provide the American people with the most abundant, safest and affordable food in the world.

I hope that you have weighed my testimony and gave my thoughts careful consideration. It was written by me, not by a staff of researchers.

Again, I want to thank you for your time and consideration today. I hope that you understand what I am trying to say, and I have to tell you it sounded a lot better on the tractor seat.

[Laughter.]

Mr. MCPHERSON. Thank you.

[The prepared statement of Mr. McPherson can be found on page 85 in the appendix.]

Chairwoman STABENOW. Well, thank you, Mr. McPherson. We really appreciate your being here, and everyone that is here and took the time, Mr. Sietsema as well, each of you, to be a part of this because this ultimately is about how we support all of your and how does the Farm Bill, how does it work for each of you. You are literally right where the rubber meets the road, and that is why we have these hearings, and that is why we very much appreciate your coming in.

I want to take a moment just to ask each of you as we look at the future, as we look at economic opportunity, and ask each of you what you think is the biggest opportunity for economic growth. Where is the opportunity?

Mr. McPherson, you said you were optimistic. And maybe I will just start here and go this way across the panel.

I also want, Mr. Sietsema, for you to talk about some of the innovations on your farm because it is really a tribute to you and your family, and what you have been able to do in the vast potential within the livestock sector to diversify and create value-added opportunities.

But Mr. McPherson, let me start with you. You said you are optimistic about the future. What is the number one opportunity, do you think, that there is as it relates particularly to the livestock industry for economic growth?

Mr. MCPHERSON. Well, I am optimistic——

Chairwoman STABENOW. You might need to push the button.

Mr. MCPHERSON. Okay. I am optimistic about the future of farming and the future of livestock. We run a small cow-calf operation. We have about 250 mother cows. We sell the calves off of those cows in the fall and run about 500 yearlings. So we buy about 500 yearlings each fall and feed them over the winter and run them on grass, and then we send them back to the Midwest to one of these other gentlemen's States to finish them.

The thing that gives me the most optimism about the future is the amount of people in the world that are hungry and that have money. And they are in developing countries, and they want to eat, and they want to eat American—well, I hope they all want to eat Montana beef, but they want to eat American beef and pork and chicken.

I believe that the other area that gives me lots of hope is the research that has been done and the research that continues to be done, the crops that are being raised. In Eastern Montana, we have many sugar beet farmers, and their production with Roundup Ready sugar beets has raised their yields considerably, oftentimes making it more economical for them to stay in the sugar beet business. That is just one area of research.

Chairwoman STABENOW. Well thank you. I appreciate that. So, research and global markets.

I am going to ask just quickly before my time is up.

Mr. MCPHERSON. Sure.

Chairwoman STABENOW. Mr. Welch, if you were to name an economic opportunity for the future, related to livestock, what would it be?

Mr. WELCH. Well, the condition of the poultry industry right now is survival at the moment, but the evidence of history proves that in the last 25 years the chicken industry has doubled its production and head count from 80 million chickens a week to now about 160 million chickens a week, at the same time improved the—increased the live weight from 4 pounds average per bird to almost 6 pounds now.

So if you take the head count and the weight increase, in a mere 25 years we have tripled the production of broilers in the United States, which is a testimony to the animal itself and technology and genetics that a chicken now can—we can make a live chicken with a little bit less than two pounds of feed to make a pound of live weight, which is incredible, efficient and cost effective. I would expect those situations to continue if we can get through this economic distress.

Not only agriculture is one of our country's proudest industries, and not only feed our own population. The effect we have had on feeding the world, we honestly hope that our task can continue in that.

Chairwoman STABENOW. Absolutely.

Mr. Harper?

Mr. HARPER. Well, I see probably the biggest opportunity is meeting the challenge of providing food for a growing world. I think we have the opportunity to do our best to meet that demand, I think, and we can do that by not only utilizing but protecting our natural resources in the process. I think we have been blessed here in the United States with an abundance of natural resources.

And I think some of the comments previously. I think we have been able to produce more with less, and I think that will continue to be what we strive to do, specifically in the beef industry, and we have to do that by the help of you folks up here in Washington kind of somewhat keeping your hands off and letting us do business the way we know how to do it best.

Chairwoman STABENOW. Okay. Great.

And I am going to ask that Mr. Hunt take just a moment to answer the same question.

Mr. HUNT. Well, at the risk of being redundant, certainly the opportunities in Southeast Asia in our export markets are tremendous. As we see a growing middle class, they are going to want to upgrade their diets. And we in the Midwest in the United States, I am just so optimistic with the potential of agriculture producers, whether it be livestock or grain.

I think we need to be cautious of laws like COOL that are counterproductive to those export markets, and we need to pass FTA.

Chairwoman STABENOW. Thanks.

Mr. Jones?

Mr. JONES. I think technology——

Chairwoman STABENOW. You want to push the button there.

Mr. JONES. I pushed the button the last time.

I think technology is going to be one of the leaders in agriculture today that is going to make us competitive.

The question is though who is going to be there to share that? When you look at the trends of less producers across America, it is a trend you cannot deny.

So who is going to be there to be in the sharing of that? It is going to be the fewer and the bigger and the more concentrated. That is what bothers me.

But as far as growth and demand, it is going to be there, but it is who is going to share that.

Chairwoman STABENOW. Thank you very much.

And finally, Mr. Sietsema, again, I appreciate your testimony and your innovation on your farm. What would you say is the biggest?

Mr. SIETSEMA. Sure. Opportunities I see also are the global marketplace. It was talked earlier today by USDA about trying to find these markets, create these markets. Well, in my opinion, markets will find us because we create, we produce the highest quality meat products in the world.

But we have to do it at a reasonable cost. Regulations and the GIPSA rule only are counteractive to reducing our costs of production, plain and simple.

The other opportunities are if you as a Committee are to move away from conservation reserve type programs in natural resources to conservation practices and programs for working lands. That would be similar to what we use the REAP program for, which is Rural Energy for America, for a gasification facility that we have put up for our turkey program, as well as rural development funds and availability for loan guarantees to allow our co-op to exist.

Chairwoman STABENOW. Thank you very much.

I have gone over, so I am going to add two minutes to Senator Roberts and Senator Baucus since I took an additional two minutes in that. Thank you.

Senator ROBERTS. Max, I think your witness ought to be from Dodge City. I do not know——

Senator BAUCUS. It could be any place in America.

Senator ROBERTS. Let the record show there is one optimistic farmer from Montana.

Senator BAUCUS. We are upbeat.

Senator ROBERTS. We are going to have to pass the hat for him to get back and farm, but at any rate.

I am just happy to hear one, two, three, four, five, six optimistic producers here, from many sizes, segments, and some opinions of agriculture, which is very encouraging.

Steve, my understanding that although the GIPSA rule does not explicitly ban the more than 50 grid-pricing formula, pricing or alternative marketing arrangements used by the beef industry, there are others that assert that the actual effect, the practical effect here of this proposed rule will cause these arrangements to be reduced down to 2 or 3. So from your viewpoint, how does this rule impact these marketing arrangements?

Mr. HUNT. Senator, again, thank you for the kind introduction earlier.

By the way, I am not attorney, but I believe you are right. I do not believe anywhere in the rule does it explicitly say that these value-based opportunities are eliminated.

I think many of us on the panel have alluded to this, but the plain and simple facts are for those of us that have worked hard, with the direction of our consumers and the requests of the producers, have come to processors and say let's develop these value-added programs, our costs will go up and our risks will go up.

Now it does not take a very smart person to say if that is the case what will happen over time is to eliminate that risk and protect the investment that we have. We have to narrow that band and width of price differentiation.

And how narrow that band gets is how aggressive the proponents are of this rule in their litigation and taking advantage of the gate swinging wide open. If it is real aggressive, they will be eliminated.

We cannot stand the risk. We cannot stand the costs to protect our investment.

Senator ROBERTS. Well, we certainly hope that does not happen.

Let me ask a real quick follow-up. Did we not actually see this happen—I referred to it earlier—in Missouri in 1999?

Mr. HUNT. Yes, Senator.

Senator ROBERTS. By the way, I think Kansas State beat Missouri in 1999, but I just want to throw that out.

Mr. HUNT. Well, as one with my money in Missouri and my heart in Kansas today, that may be true.

Missouri did in 2001. The legislature passed a law that had many of the same aspects of the GIPSA rule.

And I think it is Professor Ron Plain of the University of Missouri will recognize that, Senator.

Senator ROBERTS. Right.

Mr. HUNT. He indicated that this was a horrible action on the part of the legislature and cost the producers $1 million per month while it was enacted. They called a special legislative session later on that fall and reversed that decision and repealed that law.

So you know, history is a pretty good indicator of future action, and I think history tells us we should learn from that, that this could have a devastating impact.

Senator ROBERTS. Frank, let me just ask you this question. If these alternative marketing arrangements go away, does it change your business model and the type of cattle you raise?

Mr. HARPER. Oh, absolutely. I have been retaining ownership I think since around 1996, and basically by doing that I have learned, number one, what my cattle were at that time. And by getting the information back that I have received from participating in these arrangements, in these marketing arrangements and getting the premiums that the market has offered, I have been able to modify my genetics, and that is the way I base my business model.

If those options were eliminated or even somewhat compromised, I think that definitely would lend me to completely looking differently at how I would move forward with my cow-calf operation.

Senator ROBERTS. What is your priority list of items that would need to be in the Farm Bill, and I am specifically asking do we need a livestock title in the next Farm Bill?

Mr. HARPER. Well, I think that is a very fair question. And my concern with the livestock title is based on what might come out of that. And when we see things like GIPSA and the mandatory COOL, I think that makes us in the beef cattle industry pretty nervous about a livestock title in the upcoming Farm Bill. So I do not know if that answers your question.

You know, we like to see some of the—we would like to see a robust conservation title and a robust research title, but the livestock title is the one that we move forward with, with some caution.

Senator ROBERTS. I think the Chairwoman and I are big supporters, without question, of EQIP.

Chairwoman STABENOW. Yes.

Senator ROBERTS. We are going to take a good hard look at that and see if we cannot be helpful there, if we can ever get to a Farm Bill with the way things are going.

I want to thank all the panelists, and I am going to quite with two minutes ahead.

Chairwoman STABENOW. All right. Thank you very much.

Senator Baucus.

Senator BAUCUS. Thank you, Madam Chairwoman.

I am heartened that so many of you talked about the need to increase our beef export market and also the free trade agreements that need to be passed. Several hours ago, I announced that the Finance Committee is going to mark up the free trade agreements on Thursday to get them all rolling, get things going here, because we have been delaying this a bit too long.

And they will help us export more beef; there is no question. Certainly, the Korean agreement will help export more beef. My goal is to then put more pressure on other Asian countries, especially China and Japan, so they eventually—not eventually, very soon—take all ages, all cuts because that is a huge opportunity for the American producer.

I urge you though when you talk about these FTAs—the Korean and Colombian and the Panama—to also recognize that they will pass only if trade adjustment assistance is also passed, and they are all together. And we are not going to get the FTAs, whether it is Korea or any of the other two, unless trade adjustment assistance is also passed. It is all or nothing, and my judgment is it is a package that is worth pursuing.

So I urge all of you when you are talking to your colleagues and your friends and the industry, and so forth, just you might advise them that heck, if we are going to get these FTAs, part of the deal is we also have trade adjustment assistance as part of it. Then I think we can start putting more pressure on these other countries.

I must tell you it was hard getting the extra beef provisions in the Korean bill. It was very hard. I ran into a lot of resistance in different quarters, but we got some bump-up in Korea. So that is a good precedent I hope for future agreements.

I would just like to know, standing back a little bit. We talked about the Ag Bill, and for some of you, the livestock title. What other factors really affect your viability?

I mean there are going to be tax issues, I am sure. We talked about trade. I am just curious. When you think about your operation, you think about your family, you think about your future, how much of it is just cost, the cost of production?

How much of it is tax provisions, including the Federal and State tax?

How much of it is marketing opportunities overseas?

Just what about the sense of space?

In my State, in Montana, we Montanans do what we can to keep farms and ranches operating mostly for the operators and the owners and the producers, but also we in Montana like the space. We like all that land that people can drive through and drive around rather than having it subdivided.

So when you think, I am just curious what some of the thoughts are and do you prioritize them?

Mr. Hunt?

Mr. HUNT. Senator, one thing I would mention related to tax, I do not know how many members understand that many of our ag companies are formed in pass-through entities.

Senator BAUCUS. Right.

Mr. HUNT. These are entities that the owners pay the tax, not the company. So when we think about corporate America and paying corporate taxes and so on, and personal income taxes, actually for many companies like ours, our producer-owners are actually paying the tax for the company. So when you talk about raising personal income taxes, that is actually raising the taxes on the owners of these business.

Senator BAUCUS. Okay. Other thoughts?

Hans, you have some ideas about that? And thank you for coming

Mr. MCPHERSON. Yes, thank you, Senator.

Senator BAUCUS. Your testimony sounded just as good here as it did in your tractor, believe me.

Mr. MCPHERSON. Okay. Thank you.

I think one of the things that affects our operation is new—and it was in the last Farm Bill, and it is just you Chief White talk about it here earlier—was the CSP program. The Conservation Stewardship Program is a program that really benefits livestock producers. We were able to take advantage of that.

Programs like CRP got tweaked back in, I think, 2002 to allow some rotational grazing and some rotational hay on it. That helps livestock producers. In our State right now, with the flooding, CRP ground has been able to be used for some calving and to move calves, or the cows, off the lower ground where it is flooded. So I think that is a good program.

But for my personal operation, the CSP program has been very, very beneficial, and it has helped us.

Senator BAUCUS. Do you use EQIP?

Mr. MCPHERSON. Yes, we have used EQIP?

Senator BAUCUS. That has been helpful too?

Mr. MCPHERSON. Absolutely.

The other livestock disaster programs, I stated in my written testimony that I feel very fortunate that I do not have very much experience in the livestock disaster programs. So that is personal experience.

I have seen it in my experience with the county FSA office and with the State FSA committee, to where these livestock disaster programs have made the matter of whether a family eats this summer or not over some disaster with livestock.

Senator BAUCUS. I would just be interested in your thoughts in addition to what you just said because when we wrote the last Farm Bill, frankly, I insisted on a disaster section of the bill, so we have a permanent agriculture disaster assistance program. The thought being that we have got to get away from the ad hoc. You know, some years we get disaster assistance, some years we do not, and it just waiting for Congress to act, and so on and so forth.

Now nothing is perfect, but just your honest assessment of whether the provisions that are currently in the Farm Bill with respect to livestock indemnity or forage, or what not, do they tend to work or not? Would you suggest improvements?

Mr. MCPHERSON. Well, I believe they work very, very well. And prior to 2008, it seemed to me like all the Farm Bills were written for the corn and soybean producers and wheat producers. I will not win many friends with them guys today, but it is nice to have something in the Farm Bill that is for the livestock producer or the diversified farmer.

Senator BAUCUS. So you find that it is better than earlier practice where sometimes Congress acted and sometimes Congress did not act?

Mr. MCPHERSON. I believe that is true, yes.

Senator BAUCUS. Okay. What about others? I am curious what others think about the disaster provisions in the Farm Bill.

Mr. SIETSEMA. I would go along with the personal tax issue that was brought up earlier. Our entities also are pass-through entities. With increasing personal tax rates, there can be large profits in an organization of different sizes, and they are not realized cash profits. They are corn in a bin or they are livestock in a feed operation. They have not turned into cash yet. But with the current volatility in the markets these past few years, you could have a substantial profit on December 31 and have it all vaporize by April 1st of the following year, but you paid a tax liability on that dead date of December 31st.

Senator BAUCUS. My time is expiring, but I would just be curious. Are all of you organized as pass-through companies? Are any of you C corporations? Are you pass-throughs? I am just curious how you all are organized from a business tax perspective.

Mr. HUNT. LLC.

Senator BAUCUS. LLC, so you are pass-through.

Mr. SIETSEMA. And the other would be the estate tax issue.

Senator BAUCUS. Okay. Are any of you C corps?

So you are all pass-throughs. Sub-chapter S, another pass-through. Okay.

Mr. SIETSEMA. And the estate tax issue. We have got three generations working in our farm operation, shoulder to shoulder. And as we continue to grow and expand our operations it is going to be more and more difficult to maintain those operations without having to sell a chunk off to send Washington a check so that I can maintain the balance of my operation for myself and my next generation.

Senator BAUCUS. There was a change in the State and Federal estate tax law last year, last December. Have you looked at that? It was a big change in your favor.

Mr. SIETSEMA. Yes, in our favor, but there are still some areas there that——

Senator BAUCUS. I am just curious.

Mr. SIETSEMA. —it is amazing how large a farm can be valued today also.

Senator BAUCUS. Yes. Right. Okay. Thank you very much.

Chairwoman STABENOW. All right. Well, thank you.

Senator BAUCUS. Thank you.

Chairwoman STABENOW. Thank you very much to all of you for coming forward. This certainly is not the last time we are going to be talking about the importance of the livestock industry and the issues that you are facing. We appreciate your raising all the issues you face.

And as we go forward in the Farm Bill we want to make sure that we are doing the right thing to be able to be your partners, to be able to make sure that you have every opportunity to continue to be successful and move forward. We are looking—whether it is GIPSA or other issues that affect the industry we talked about today, we are going to continue to be involved and engaged in the discussions with the Department.

And I would just say in closing that we need to remember again that the livestock industry supports two million jobs nationally, and we need to make sure that each of you and the people you represent have the tools and the support to be successful because it is important for all of us.

So, thank you very much.

The meeting is adjourned.

[Whereupon, at 5:19 p.m, the hearing was adjourned.]

APPENDIX

JUNE 28, 2011

Agriculture Committee
Senator John Boozman
Statement for the Record
Hearing on Livestock Industry
6-28-11

During February Committee hearing, Secretary Vilsack noted the stability of our livestock industry, and attributed this stability to stable production and increased exports. He also noted that increasing feed costs would be an important factor for our livestock industry. At the time, he forecast that the price of corn would average between $5.05 and $5.75 per bushel. Now here we are less than halfway through the year, and corn is currently trading about 1 dollar per bushel higher than that estimate, and just down from its recent high of over $7.

These high grain prices are killing our poultry industry in Arkansas.

Furthermore, failure to pass common sense trade agreements with Columbia, Panama, and South Korea is hurting agribusiness and handing future markets over to foreign competitors. This is because our competitors understand the importance of moving forward in securing these markets, and they have the wherewithal to get these things done.

At the same time, our nation is hurting for a comprehensive energy policy. Agriculture is an energy intensive business, and in order for us to have an affordable domestic energy supply for production agriculture, we need to develop our natural resources.

This requires an "all-of-the-above" energy policy that uses all the natural resources we have been blessed with right here in the United States.

On one hand, we are restricting the responsible development of some of our natural resources. On the other, we are incentivizing the production of energy from food and driving up the price of grains and groceries. This is literally putting our agribusinesses and American families in a pinch between their cost of energy and the cost of food, or the grains that we need to produce it.

All the while, we are creating so much uncertainty out there, that American businesses, including the livestock industry, have no idea what their costs might be next week, next month, or next year. Things like EPA regulations on greenhouse gasses, this GIPSA Rule, and many others are tying the hands of businesses who would otherwise want to invest in the future or expand, but are too reluctant because they don't know what the government is going to do next. This is a story that is playing itself out over and over again in almost every industry in our country, and it is having a real impact on jobs and the prosperity of our great nation.

Some estimate that the increased cost to the broiler industry in feed expenses since October 2006 is as high as $20 billion. We have lost jobs in Arkansas. On Saturday, the AP reported that, due to increase cost of feed and an inability to shift the cost to consumers, a poultry processor will have to eliminate 223 jobs in Siloam Springs, AR.

It is not just in Arkansas. Earlier this month, a Delaware poultry company with a 92 year history declared bankruptcy for the same reason, and now 2200 jobs hang in the balance. And last week, another company in Georgia announced 300 lay-offs for the same reasons.

Now I have recently reviewed the summary of an economic analysis on the proposed GIPSA rule, and it has the following findings:

- Total impact on Jobs: 22,800 jobs lost in the livestock industry
- Total impact on the Economy: 1.5 billion contraction of US GDP
- Total impact on federal revenues: 359 million dollars lost in federal revenues
- In the report, much of this loss was attributed to uncertainty created by vagueness in the rule and the elimination of certain incentives for improvements.

If we are really serious about addressing unemployment, turning this economy around, balancing our federal budget, how could we seriously continue any of these policies that are putting the government between American's and prosperity?

Opening Statement
Senator Saxby Chambliss
Senate Committee on Agriculture, Nutrition and Forestry
Hearing
June 28, 2011
The State of Livestock in America

Chairwoman Stabenow and Ranking Member Roberts, thank you for providing this Committee the opportunity to discuss the current condition of the livestock industry. I appreciate the witnesses for being here and providing their testimonies, which I hope will provide this committee with a view of the many challenges faced by livestock producers and processors today.

On Tuesday, June 22, 2010 the Grain Inspection, Packers & Stockyards Administration (GIPSA) published a Proposed Rule on conduct in violation of the Packers & Stockyards Act (P&S Act). The proposal was intended to meet the requirements set forth in the 2008 Farm Bill. However, it also contained several proposals not mandated by the bill that represent a distinct policy shift in P&S Act enforcement. I am very concerned with the scope of the rules regarding the new livestock and poultry marketing regulations proposed by GIPSA. I believe the proposal went well beyond the requirements of the 2008 farm bill and will have significant negative consequences for the livestock and poultry producers that it is designed to protect. I am equally concerned that the Department published the rule without understanding the economic impact on the livestock industry and initially made no effort to perform an economic impact study.

High feed costs and the bleak economic climate have further contributed to instability in the livestock industry. Recently a Georgia based poultry processor announced that they will be laying off three hundred employees due to a large increase input costs, with prices climbing mainly due to a 75 percent increase in the cost of corn. It is very important that we address these and other challenges in the industry to ensure that jobs are created and not lost.

I would like to thank Mr. Michael Welch for traveling from Georgia to testify on behalf of the National Chicken Council, his expertise in poultry production, processing, and marketing will undoubtedly provide the committee with a sincere assessment of the many obstacles poultry and livestock producers face.

I am happy to work with my colleagues to address these important issues. So again, I commend Chairwoman Stabenow and Ranking Member Roberts for holding this hearing to allow this opportunity to gather facts.

KANSAS
LIVESTOCK
ASSOCIATION
Since 1894

Testimony

on behalf of the

Kansas Livestock Association

with regard to

Livestock and the next Farm Bill

Submitted to the

United States Senate Committee on Agriculture, Nutrition and Forestry

Senator Debbie Stabenow, Chair

Submitted by

Frank Harper

President-Elect

Kansas Livestock Association

June 28, 2011

Washington, D.C.

Madam Chairman, Senator Roberts and members of the committee, my name is Frank Harper and I have a cow-calf, backgrounding and farming operation near Sedgwick, Kansas. I am President-Elect of the Kansas Livestock Association (KLA) and serve on the Board of Directors of the National Cattlemen's Beef Association (NCBA), of which KLA is an affiliate. I am very pleased to be with you today.

KLA is a trade association representing nearly 5,500 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations. Though the KLA membership is diverse, their primary interest is the beef industry. The beef industry is a key segment of the Kansas economy and the Kansas beef industry is a major piece of the U.S. beef industry.

Kansas ranks second nationally with 6.3 million cattle on ranches and in feedyards. Those cattle generated $6.53 billion in cash receipts last year. Kansas is a national leader in cattle feeding and beef processing. The Kansas beef cow herd is the sixth largest in the country at 1.48 million head. Also, the presence of Kansas State University, the Animal Health Corridor and the addition of the National Bio and Agro-Defense Facility makes Kansas a world leader in animal health research.

Development of the next farm bill is an important process for livestock producers. Whether directly or indirectly, the provisions included in the farm bill can have a dramatic impact on our members' businesses. KLA members oppose agriculture policies that pit one industry group against another, distort market signals and inadvertently cause economic harm to the livestock sector.

KLA members believe the livestock industry is best served by the process of free enterprise and free trade. Even with its imperfections, free trade is relatively more equitable than regulated and subsidized markets which retard innovation and distort production and market signals. KLA members oppose attempts to narrow the business options or limit the individual freedom of livestock producers to innovate in the management and marketing of their production.

GIPSA Proposed Rule on Livestock Marketing

KLA and NCBA continue to strongly oppose the proposed regulations issued by the Grain Inspection, Packers and Stockyards Administration (GIPSA) issued June 22, 2010. KLA and NCBA filed extensive comments which may be found at http://www.kla.org/proposedgipsarule.aspx.

In short, producers throughout Kansas and the United States are concerned that the proposed regulations would greatly expand the role of government in marketing livestock and eliminate producers' rights and ability to market livestock to capture the benefits of their efforts to improve the quality of their livestock.

As outlined in both sets of comments, the regulations outline new definitions to be used to interpret the Packers and Stockyards Act that would expand the jurisdiction of USDA over all marketing arrangements. USDA would require the reporting of marketing arrangements and then would post them on the USDA web site. Producers participating in marketing arrangements would have limited ability to protect their private information from public disclosure.

The proposed regulation has broad application and may include existing contractual arrangements if the agreement between the buyer and the seller were modified by the parties. The proposal also would require buyers to justify any discount or premium paid. USDA then would review these transactions and make determinations of violations based upon its judgment, not marketplace economics.

The proposal includes new definitions of "competitive injury" and "likelihood of competitive injury" and new listings of circumstances that may be considered "unfair, unjustly discriminatory and deceptive practices or devices." Both sets are so broad that mere accusations, without economic proof, would suffice for USDA or an individual to bring a lawsuit against a buyer.

The proposal's new listings of criteria that USDA would use to determine whether an undue or unreasonable preference or advantage was made by a buyer include requiring the buyer to make similar offers to all livestock producers; requiring the buyer to make price premium offers in a manner that does not discriminate against any other seller; and requiring the buyer to make offers known to all sellers if such offer is made to one or more seller.

Finally, the proposal would ban packer-to-packer livestock sales and allow dealers to represent only one packer. This language may have unintended consequences for some smaller regional packers and dealers.

We believe these provisions would negatively impact producers and consumers in the following ways.

Lost Opportunities and Lost Profits: NCBA and KLA members are concerned this regulatory proposal, coupled with the risk of litigation from USDA and citizen suits, likely would cause buyers to withdraw marketing arrangements rather than run the risk of litigation, civil penalties and potential revocation of licenses.

If marketing arrangements were restricted, producers and consumers would be the losers. The proposed regulation would restrict cattle producers' freedom to market their cattle as they see fit. It would limit their opportunity to capture more of the value of their cattle and eliminate important risk management tools. Regulating marketing agreements would impact nearly 65% of the fed cattle market.

The proposed regulations ultimately may remove products consumers prefer. Producers have responded to consumer demand by finding innovative ways to develop and market premium quality and branded products. These alternative marketing arrangements have allowed producers to get paid for the added value. These arrangements ensure a consistent supply of livestock and poultry that meet the requirements of such programs. Without this consistent supply, these programs cannot be sustained.

The 2007 USDA GIPSA Livestock and Meat Marketing Study found reducing or eliminating the use of alternative marketing arrangements (AMAs) would negatively affect both producers and consumers. No segment of the beef industry, from the ranch to the consumer, would benefit from the reduction or elimination of these marketing arrangements. The GIPSA study results showed if AMAs were reduced 25%, the 10-year cumulative effect would be a loss of $5.141 billion for feeder cattle producers; a loss of $3.886 billion for fed cattle producers; and a loss of $2.539 billion for consumers. If marketing arrangements were eliminated, the 10-year cumulative losses for producers and consumers would be as follows: feeder cattle producers - $29.004 billion; fed cattle producers - $21.813 billion; and consumers - $13.657 billion. Combined losses across all segments would exceed $60 billion.

Loss of Privacy/Risk of Litigation: The proposed regulation requires packers to file copies of marketing arrangements with USDA. Packers may assert some information is confidential and request that it not be released. However, producers who are parties to the marketing arrangements would not have the same opportunity to claim privacy. This means confidential producer information could be posted on USDA's web site for producer competitors to view. The regulation would lessen the burden for bringing an action against a packer. Packer livestock purchase records likely would be a part of any litigation. Producers participating in questioned transactions likely would be drawn into the litigation.

Negative Restructuring of the Industry: NCBA and KLA members believe the proposed regulation prohibiting packer-to-packer sales and the potential elimination of marketing arrangements likely would encourage vertical integration. In order to satisfy consumer demand currently being met through the use of marketing arrangements, packers may choose to own livestock in larger numbers (today, packers directly own less than 5% of the market) rather than risk litigation.

While the regulation is couched in many legal terms and arguments, it would have a real impact on producers like me. Over the years, I have invested in genetics that have helped me improve the quality and consistency of the calves I produce. To capitalize on this investment, I retain ownership on my calves and feed them in a commercial feedyard. This allows me to market my calves through U.S. Premium Beef and other programs that allow me to earn premiums for my high quality cattle.

The proposed regulation would require purchasers of my cattle to justify paying more than a "standard price" for my livestock. What is a standard price and who sets it? The regulation seems to infer that is the role of government. I strongly oppose the government setting "standard prices" for my livestock. If my competitors (other producers) don't agree with the justification the packer offers for not paying me a "standard price", the packer may be sued. Common business sense tells me that it wouldn't be long before the packer no longer would be interested in our agreement. This means I'll be back to selling cattle for the same average price as everyone else. My investment in superior genetics would be lost.

KLA and NCBA members believe the proposed rule will set the beef industry back to a time when all cattle received the same average price and beef demand was in a downward spiral. The rule also goes far beyond the intent of Congress. Members of this committee will recall several of the proposals contained in this rule were either defeated or withdrawn during consideration of the last farm bill. We strongly urge you to take action to prevent the implementation of this rule.

Eastern Livestock Failure

Throughout the history of the cattle industry, we have experienced failed cattle dealers or marketing agents whose business dealings impacted hundreds of producers and hundreds of thousands of dollars. Last fall, we learned of yet another failed cattle dealer involving an estimated $130 million in losses to producers, suppliers, truckers, auction markets and cattle feeders throughout the United States. As you know, the case is now in bankruptcy court.

These cases are difficult for the industry. We are all sympathetic to the producer/seller, supplier or trucker who did not get paid. However, in the cattle industry, we still value the "handshake deal" and believe most people are honest and truthful in their dealings. However, lending practices and financial security require that we analyze what transactions caused this and other failures. We need to understand what oversight was or was not provided to assure the integrity of financial transactions. NCBA has established a working group to analyze these issues and to make recommendations to assure the financial integrity of the feeder cattle trade. The group is composed of cattle producers from all segments of the industry, financial experts, lawyers, and representatives of auction markets, dealers, and marketing agents. The group hopes to make recommendations for consideration during upcoming farm bill deliberations.

Country-of-Origin Labeling

KLA has been a proponent of voluntary country-of-origin labeling (COOL) programs. KLA members believe the market will provide the information and attributes consumers desire and are willing to pay to receive. The number of branded beef programs being utilized by beef producers is a testament to the signals provided by the market.

Despite broad beef industry opposition, the current mandatory COOL program was included in the last farm bill. KLA actively engaged in the development of the regulation in an attempt to limit the recordkeeping burden for the industry. While we believe the requirements of mandatory COOL have been relatively benign for most of our members, the same cannot be said for all beef industry participants.

Recent leaks of a preliminary report indicate the World Trade Organization (WTO) will rule in favor of Canada and Mexico in their complaint against the U.S. mandatory COOL program. While the U.S. will have the opportunity to appeal the WTO decision, we encourage U.S. officials to forgo the appeal and immediately begin work on adjusting the program to comply with the WTO ruling.

It is in the interests of the U.S. as a whole, and the U.S. beef industry in particular, to resolve this dispute before retaliatory action is taken. Canada and Mexico are among the largest trading partners for the U.S. In terms of exports, Mexico and Canada represent the number one and two destinations for U.S. beef products. In 2010, Mexico and Canada purchased a combined $1.546 billion worth of U.S. beef and beef products, nearly 40 percent of our total beef export value.

KLA strongly encourages the inclusion of language in the next farm bill to address the WTO finding. KLA recommends adopting language making the meat portion of the COOL program voluntary. An alternative approach would be to adopt the concept of substantial transformation wherein meat from any animal processed in the U.S. would be labeled as "Product of the U.S." KLA believes either approach likely will satisfy WTO requirements, although the voluntary program would be our preferred method of compliance.

GIPSA Scale Testing Rule

On January 20, 2011, the Grain Inspection, Packers and Stockyards Administration issued a final rule titled "Required Scale Tests." The rule clarifies the requirements for the frequency and interval of testing for scales used by regulated entities. At the same time, the testing requirement for scales used to weigh cattle sold through video auctions has been brought into question.

Video auctions are regulated entities and, therefore, are subject to the rule requiring the use of tested scales. However, due to the remote nature of the sales, the cattle do not pass through a facility with scales. Cattle typically are weighed on nearby scales after leaving the seller's operation and before being delivered to the buyer. These scales typically are owned by grain elevators and other non-GIPSA regulated entities and only are tested one time each year. Requiring the use of bi-annually tested scales adds unnecessary transaction costs, transportation costs and stress on the cattle. Even the flexibility allowed for scales with "limited seasonal use" may not be sufficient because of the arbitrary seasonal periods prescribed by the rule.

KLA supports language that would allow the use of scales tested annually in these types of transactions. Alternatively, expanding the "limited seasonal use" exception to allow the use of scales tested any time within the previous six months would make the rule more workable. KLA seeks the support of the committee in addressing this issue, whether through legislation or in making the necessary regulatory changes.

Disaster Programs

Livestock producers appreciate the help offered through the Livestock Indemnity Program and the Supplemental Agricultural Disaster Assistance Programs. For some especially hard-hit producers, these programs have been essential to the continued survival of their operation. While extremes in weather always have been a challenge in agriculture, we see advantages in established programs with known guidelines versus an endless string of ad hoc disaster programs.

KLA does recommend a specific change to the Livestock Indemnity Program, if it is extended beyond its current expiration date. Some KLA members have been deemed ineligible for the program because they do not have a USDA farm number. We do not believe it necessary for a producer to participate in farm programs to be eligible for a livestock disaster program.

Conservation Title

Several conservation programs authorized in previous farm bills have played an important role in assisting farmers and ranchers enhance our nation's natural resources for food production, wildlife habitat, and water quality. In Kansas, the Environmental Quality Incentive Program (EQIP) is improving habitat for grassland-nesting birds under consideration for listing as threatened or endangered species, enhancing the health of grazing lands, improving water quality near lakes used for public drinking water, improving soil quality, conserving groundwater, and reducing soil erosion. In fiscal year 2010, our state NRCS personnel completed over 900 contracts impacting over 213,000 acres of our state's agricultural landscape.

Farm and Ranchland Protection Program and Grassland Reserve Program (GRP) conservation easements are in strong demand by our state's agricultural landowners who desire to sell their development rights to protect their lands for future generations of farmers and ranchers. In many instances, selling a conservation easement has been a helpful tool for estate and succession planning as today's landowners prepare for the next generation of farmers and ranchers.

Kansas leads the nation in the number of GRP agreements. To date this program has permanently protected over 36,000 acres of high-quality native grasslands, through 66 GRP conservation easements in Kansas. We realize GRP does not have baseline funding for the next farm bill, but we encourage Congress to reauthorize this program and give it favorable consideration for its share of funding.

KLA also encourages this committee to remind your colleagues that federal funds spent on conservation are a good investment in our country's natural resources and the ultimate beneficiary is the general public. In addition, conservation program spending is not an entitlement as participants are required to use these funds on the land and, in many instances, are required to invest their own time and personal funds as a match or cost-share contribution.

Conservation Easement Tax Incentive

The Food, Conservation, and Energy Act of 2008 (farm bill) included a provision to extend the income tax incentive for qualified conservation gifts, including donated conservation easements. This extension expired December 31, 2009, but last December Congress extended this enhanced incentive until December 31, 2011. The Kansas Livestock Association is supportive of making this incentive more permanent, as proposed in S. 339, the Rural Heritage Conservation Extension Act. This bipartisan bill is sponsored by five members of the Senate Agriculture Committee. We urge all senators on this committee to become cosponsors and push for passage of this bill before December 31, 2011.

Agriculture Research

As we look at the next farm bill, it is imperative that we work to preserve the research title and not allow it to be raided in order to fund other titles or project areas. With the ever-increasing number of mouths we will have to feed in the United States and abroad, it is critical we have the tools and techniques to be as efficient as possible in producing beef. As an industry, we work diligently to find ways to improve our herds through genetics and production methods. However, we still rely on the research functions at USDA to help discover new tools and methods, and more importantly, to continue work on ways to treat and control diseases such as bovine tuberculosis and brucellosis, just to name two. USDA's ongoing work to protect our industry from fever ticks and foreign animal diseases is highly important to our industry, and we want to see it maintained. Therefore, we ask that the next farm bill include a strong and robust research title.

Transportation

The agriculture industry constantly is being bombarded with increased regulations that hamper the industry's ability to do business. An example of this is the Federal Motor Carrier Safety Administration's release of a guidance document for public comment. The document basically would require all farmers and ranchers to meet all commercial motor vehicle standards in order to transport their products to market. This is an example of regulatory overreach. Senator Roberts and others have asked for an extension of the comment period to allow interested parties time to submit adequate comments. We appreciate Senator Roberts' efforts and are hopeful this misguided guidance will be corrected in order to allow farmers and ranchers to transport their products to market without excessive red tape.

Conclusion

As you can see, KLA members believe markets free from government interference best serve the beef industry. We prefer a farm bill that does not restrict our marketing options or distort market signals. We look forward to working with you as the next farm bill is developed.

Frank Harper
KLA President-Elect

Frank Harper has backgrounding facilities and grazes cattle on crop residue in Harvey and Sedgwick counties, near Sedgwick, Kansas. He and his wife, Mary, lease the majority of their grass from her family in Butler County. They own both commercial and registered cowherds. Calves from the commercial herd are backgrounded and retained through the feeding phase, with some sold through U.S. Premium Beef. Harper's registered cows serve as a cooperator herd for Harms Plainview Ranch, a purebred operation near Lincolnville. The Harpers also partner with his parents on a dryland and irrigated farming operation.

Harper is very involved in beef industry leadership. He currently serves on the NCBA Board of Directors and as a member of the NCBA Joint Advertising Committee. Harper has served as vice chairman of the KLA Water Committee and on the KLA Policy & Resolutions Committee. He serves on the KLA Executive Committee and is a past KLA Harvey County director. He is a past chairman of the Kansas Beef Council Executive Committee.

Harper is a past member of the Groundwater Management District #2 Board of Directors, having served several terms as vice president. He has served in various leadership capacities with his local extension board and with the Sedgwick United Methodist Church.

He graduated from Kansas State University with an agronomy degree in 1992. Harper is a 1988 graduate from Sedgwick High School.

The Harpers have two daughters, Annie and Cora. They attend school in the Sedgwick school district.

The State of Livestock in America

Written Testimony of

Steven D. Hunt
CEO of U.S. Premium Beef, LLC

Before the
Senate Committee on Agriculture,
Nutrition and Forestry
June 28, 2011

Chairwoman Stabenow, Ranking Member Roberts and members of the committee. Thank you for giving me the opportunity to testify before your committee today. The issues I will address are of utmost importance to the U.S. beef industry and especially to U.S. Premium Beef, LLC (USPB) and its producer owners. I am honored to be asked to represent cattlemen and women who have committed their livelihood to producing the safest, highest quality beef available anywhere in the world.

Let me begin by stating that I am a fifth generation beef producer whose father, brother and nephew continue to be actively engaged in the production of beef cattle. In addition, I am CEO of U.S. Premium Beef, LLC, a relatively young company we founded in 1996, but which is now the majority owner of National Beef. The intent of our founding members was to create a company that would link producers and consumers through the ownership of beef processing and marketing. This is a unique concept on such a significant scale. USPB is owned by more than 460 beef producers from 30 states. We have had more than 2,100 producers from 36 states market cattle on our company's value-based payment grids. In total, through fiscal year 2010, we have purchased more than 8 million head of cattle from those producers and paid them more than $183 million in premiums above what the cash market would have paid them because of the quality of cattle they delivered. USPB essentially designs meat and meals by enabling communications from consumers back to producers in the form of payment incentives to produce the quality of beef consumers want to buy.

Also through 2010, we have paid our producers and owners more than $320 million in patronage and cash distributions, which were derived primarily from our ownership of beef processing. This is another benefit to our owners and producers for producing what our consumers want. USPB has proven to the industry that grass roots producers, when provided the means to achieve targeted incentives, will do so. The carcass data we provide on every single head delivered to our plants enables producers to learn what they are doing well, and where they need to consider improvements.

It's not surprising then that I believe we are living in times filled with perhaps the greatest opportunities ever offered to U.S. beef producers and the beef industry as a whole. Last year, based on data from Cattle-Fax, a beef industry consulting and advisory firm, all segments of the beef industry, from the cow-calf producers to cattle feeders and beef processors, were profitable realizing a combined $172.00 per head profit. Of that total, $135 per head was realized by beef producers. In fact, for much of the last decade, most segments have shown profit averaging a combined $89.03 per head profit per year, of which $77 was the producers' average per head profit per year. As the committee looks to the future, I believe there are two critical issues facing the industry's future: trade and the proposed GIPSA rule.

Much of our success in 2010 and in the future was, and will continue to be, tied to our export markets. Last year, our industry set a record for value of beef and beef variety meat exports of $4.08 billion according the U.S. Meat Export Federation (USMEF). That equated to an additional $153.09 per steer and heifer finished in the United States last year. I believe it is important to note here that by volume, our country's beef exports were only 84 percent of the record 2003 volume before a single cow with bovine spongiform encephalopathy (BSE) was found in the state of Washington. There is still much work to do to have all countries agree to free and fair trade practices that are based on internationally accepted science-based standards. In 2011, through April, exports equated to $190.80 per steer and heifer finished in this country. That is 13.7 percent of our total U.S. beef production so far this year. We are again on a record pace by value. Ninety-six percent of the world's population lives outside of the United States. I believe our success in exporting beef, especially given the uneven playing field we are handcuffed with, says clearly that the world's consumers want our beef.

Given the international consumer demand for our products, it is critically important that Congress passes the Free Trade Agreements (FTA) with South Korea, Colombia and Panama as soon as possible and that we reach an agreement with Japan to move from the current less than 21 month cattle age limit to at least 30 months of age. Increasing the age of beef products from finished cattle eligible for export to Japan to 30 months will greatly expand the number of cattle which meet the criteria for export, thus resulting in increased profit opportunities to the beef industry.

Let's look at the impacts of the FTA with South Korea first. According to the U.S. International Trade Commission, yearly exports of U.S. beef to South Korea could increase to as much as $1.8 billion when the annual duty on beef is taken from the current 40 percent to zero, and on beef variety meats from 18 percent to zero over the proposed 15 year time period. In 2010, U.S. beef exports to South Korea were valued at $518 million which was a 140 percent increase over 2009 levels. South Korea is now our second largest export market, on a value basis, behind only Mexico. USMEF data indicates that during the first fourth months of 2011, U.S. beef exports to South Korea was up another 150 percent compared to the same time period in 2010. These numbers support the fact that South Korean consumers want U.S. beef. Without the South Korea FTA, the U.S. will lose market share to our competitors, including Australia. South Korea already has FTAs with the 10 country ASEAN group, the European Union, India, Peru and Singapore and is considering FTAs with China, Canada, Mexico, Japan, Australia and New Zealand. Most of these countries compete with the United States for South Korea's agriculture import markets. Without an FTA, our share of that 49 million consumer market will decline as South Korea increases trade with countries that it has FTAs with.

USPB also supports passage of the FTA with Colombia. Colombia currently imposes up to 80 percent duties on U.S. beef imports which is one of the highest tariffs U.S. beef faces anywhere in the world. In 2010, U.S. beef imports were valued at $1.9 million according to USMEF. If the current duties went to zero over 10 years, as outlined in the proposed FTA, USMEF predicts U.S. beef exports would increase to $30 million annually. Implementation of the FTA with Colombia would put U.S. beef in a competitive position with imports from Brazil and Argentina into that country for the first time.

Regarding the FTA with Panama. Panama has modified its import requirements related to BSE to be consistent with international standards. Under the FTA, the 30 percent duty on high quality U.S. beef (Choice and Prime) would end immediately and would be phased out over 15 years on all other muscle cuts. On beef variety meats, the current duty of 15 percent would be eliminated over 0 to 5 years. USMEF projects that implementation of the Panama FTA would result in annual beef exports to that country totaling $5.5 million compared to $3.6 million in 2010. If the FTAs with Colombia and Panama were in place, the United States would have free trade for U.S. beef with approximately two-thirds of the population in the Western Hemisphere.

In addition to these three important FTAs, I am compelled to speak to the continuing trade barriers that we face with numerous countries around the world which are not based on internationally recognized science-based standards. Japan is an excellent example. Historically, it was the leading export market for U.S. beef on a value basis. In 2010, the U.S. exported $640 million in U.S. beef to Japan. This was far short of pre-BSE levels of $1.4 billion in 2003, due to Japan's age restriction, which is not based on internationally recognized sound science. Japan relaxed its restrictions somewhat in 2006 when it opened its market to U.S. beef from cattle less than 21 months of age, but to date we have only recovered roughly half of the value of exports in 2003. USMEF predicts that if Japan followed internationally accepted guidelines, we would again export more than $1 billion of beef to that country annually. As a leading exporter of both fresh chilled and frozen beef to Japan, USPB's producer-owners and the producers who market their cattle through our company would directly benefit from having greater access to the Japanese market. As mentioned, the 21 month cattle age limit should move to at least 30 months of age.

The same can be said for access into China and Taiwan. Neither country uses internationally recognized science-based standards as they relate to the imports of U.S. beef. The Chinese market remains closed to all U.S. beef exports resulting in annual lost trade that USMEF conservatively estimates at $200 million a year. With a middle class population exceeding 300 million people, the potential for exporting beef to China is staggering.

From our perspective we place the highest priority to expanding our access to both of these markets as soon as possible. Australia has captured much of the market share the U.S. lost when Japan closed its borders to U.S. beef, but Japanese consumer demand for our product is stronger than ever and we believe that the United States will quickly recover a significant share of the market when Japan further relaxes its import restrictions. Similarly, the economic transformation that has occurred in China since 2003 has created significant new opportunities for U.S. beef. When China reopens its market, we expect to ship the same value-added beef cuts there that we currently export to other North Asian markets like Japan and Korea.

Taiwan was the fifth leading importer of U.S. beef in 2010, purchasing more than $216 million worth of U.S. beef. While this was a 53 percent increase from 2009 levels, we believe it is far below what could be marketed into that country under internationally recognized science-based standards.

Also, regarding the importance of trade with international markets, we ask your assistance and guidance in developing a more stream lined approach within USDA to coordinate our efforts in dealing with these challenges. While much of our focus in the arena of trade is correctly placed on the passage of new and pending free trade agreements, we must place an equal amount of importance on the maintenance of commercial trade flows once markets are opened. Increasingly, livestock exports are imperiled by foreign trade barriers that require direct government-to-government intervention for resolution. In addition, USDA's current organizational structure can create challenges as several agencies are, in theory, responsible for trade. The Food Safety Inspection Service, Animal and Plant Health Inspection Service, and Foreign Agricutural Service each have different but related responsibilities in the area of trade depending on the specific situation.

For example, a simple residue issue in beef products may require the input of all three agencies and the United States Trade Representative to achieve resolution. Given the required involvement of different agencies with different policy mandates, the result can be an extended lack of access to critical foreign markets while an issue is resolved both within our government and between our government and the foreign government customer. Often, the justification for plant de-listments and other trade disruptions contradict the spirit of negotiated agreements, but the lack of a streamlined system for resolving these commercial trade disruptions leaves our industry vulnerable to sustained periods of limited access to or outright bans from critical markets. It is vitally important that the Committee encourage USDA to place an equal amount of importance on both the opening of new markets and the maintenance of existing markets and develop a more streamlined coordinated structure. In the end, an agreement with an international trading partner is only valuable if it results in meaningful, consistent and predictable access.

I would like to raise concerns regarding the proposed GIPSA livestock marketing rule, as it relates to the producer/owners of USPB. I believe the authors of the proposed rule do not intend to harm the U.S. beef industry or smaller cattle producers and processors. However, I do have concerns that numerous aspects of this proposed rule will do just that. I will focus my comments primarily on two of my concerns.

<u>Written revenue and cost justification on pricing.</u> The proposed rule calls on USDA to scrutinize transactions where producers are paid more than an average price for their cattle. Due to our extensive value-based pricing system, this could be required on every lot of cattle our producer-owned processing company purchases from USPB's producers. A requirement to present private profit and loss information to a governmental agency in order to justify paying premiums above a government mandated justifiable price is very concerning. The USDA's scrutiny of individually negotiated private treaty transactions will have a chilling effect on existing and future specialized product categories that are beneficial to producers and consumers. At a minimum, it will serve to limit negotiations and narrow the range of prices paid. Worst case scenario, variable grid pricing on specialized product categories such as Quality grade, branded, natural and age and source verified could be replaced by a single, "utility" bid. The method used by the USDA to collect, monitor and administer such practices is critical, but to date, unclear.

We believe an unintended consequence of this part of the rule would be harmful to producers of all sizes, but especially damaging to the smaller producers that the proposed rule is purportedly designed to help. Our records show that producers of all sizes have benefited from USPB's value-based system. However, our smallest producers typically have earned the largest premiums per head.

Through fiscal year 2010, USPB has purchased more than 8.3 million head of cattle since beginning operations. Eighty-three percent of USPB deliverers ship less than 500 head per year.

In analyzing the top 25 of all the lots of USPB cattle delivered since we began operations, the group of producers with the highest average premium delivered less than 250 head per year, earning a premium of $63.48 per head. The second highest premium group consists of producers who delivered less than 100 head per year, with a premium of $62.92 per head.

Why would our government want to enact a rule that would be harmful to producers of any size but especially the smaller producers who it seemingly wants to protect? These smaller producers select genetics and implement management systems that will result in a higher percentage of their cattle hitting the targets consumers set with their checkbooks and they get paid more money for doing that. My speculation is that there is a belief on the part of the authors and proponents of this rule that only the big producers get top prices. I think producers of all sizes should have fair access to the marketplace. But our data shows that the proponents are wrong and this rule would in fact aid the larger producers at the disadvantage of the small producer. Why? Larger producers have economies of scale advantages therefore lower cost structures than small producers. Take value-based pricing systems away and it becomes more difficult for smaller producers to compete.

<u>Plaintiff's no longer required to provide proof of competitive harm or injury.</u> The second issue is one of lowering the legal threshold to successfully sue a processor. Proponents of the proposed rule believe that if a deal is not reached in the marketplace between a cattle producer and a processor, that producer should have the right to sue the processor and not have to meet the current threshold of proving harm to the marketplace, which is based on substantial legal precedent.

Long standing judicial precedent would be wiped away by the proposed rule. The defense of a justified preferential pricing could be significantly limited. The broad and general nature of the proposed rules creates the very real possibility for frivolous lawsuits. If producers can sue based on their thoughts of what is unfair, it is likely that price differentiation based on added value, quality characteristics will suffer and a return to commodity, one price fits all, "utility" pricing will result. If that happens, both producers and consumers, here and around the world will lose.

Proponents of the proposed rule have responded to these concerns by asserting that processors and others will get their chance to defend their practices in court. Madam Chairperson and members of the Committee, that answer is unacceptable. I don't know how you react to being sued, but being sued means not only that I don't sleep at night, but my employees don't sleep, my investors don't sleep, our bankers don't sleep and as importantly, our customers don't sleep because they all depend on us to make payroll, pay back loans and stock their shelves so that when the consumer walks through their doors, they are open for business. The increased threat of frivolous lawsuits that this proposed rule will create is a risk no business can withstand.

I would urge the Committee to advocate that a thorough economic analysis is completed on the impacts of the proposed rule and that, at the very least, another comment period is allowed to provide additional input on the rule in order to bring the necessary changes to minimize the damage it will cause to the U.S. beef industry.

Finally, I would like to offer the following observations as the committee begins deliberation on the 2012 Farm Bill.I would encourage the committee to take into account the current conditions when considering the needs of the livestock industry. I would urge the committee to defend and strengthen the U.S. beef industry's competitive advantage by opposing unwarranted and costly provisions and regulations.

In conclusion, producing cattle and beef is a tough way to make a living, but this is an exciting time with tremendous opportunities for beef producers. Producers should be applauded for taking cues from universities, federal and state agencies and most importantly the consumers to address the demand for a wide variety of safe, high quality products than can not only compete for the center of the plate in the U.S., but around the world. I would encourage the Committee to make sure we put ourselves in a position to compete for export business. At the same time, I'd ask that you scrutinize proposed government regulations that result in unintended consequences of rolling back the vast improvements our industry has made.

Thank you for this opportunity to testify before you today.

TESTIMONY OF DENNIS JONES
NATIONAL FARMERS UNION

BEFORE THE
U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

TO REVIEW THE STATE OF LIVESTOCK IN AMERICA

TUESDAY, JUNE 28, 2011
WASHINGTON, D.C.

SUBMITTED TESTIMONY OF MR. DENNIS JONES
A MEMBER OF NATIONAL FARMERS UNION
BEFORE THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
CONCERNING: THE STATE OF LIVESTOCK IN AMERICA
JUNE 28, 2011

Introduction

Chairwoman Stabenow, Ranking Member Roberts and members of the Senate Committee on Agriculture, Nutrition and Forestry, thank you for inviting me to testify today about the state of the livestock industry. My name is Dennis Jones, and I am from Bath, S.D. I am among the fourth generation to grow up and work on my family farm, Jones Farms, and my two sons are also involved in the operation. I am a member of South Dakota Farmers Union and have been active on the boards of directors of several organizations, including the National Corn Growers Association, CoBank and the South Dakota Wheat Growers cooperative.

My farm is part of the James Valley Pork Cooperative, and along with seven other member farms, our cooperative finishes 40,000 hogs annually. The cooperative, which was established in the early 1990s, contracts with Smithfield Foods for the processing of our finished hogs. By being a part of a larger group of farmers, I had hoped to able to attain a degree of power in numbers to reach a favorable agreement with a processor and a more competitive price for my cooperative's pigs.

An Overview of the Livestock Industry

This year has already been a challenging time for livestock producers and the future appears that it will be even more difficult. Tight corn supplies and significant reductions to planted acres are driving high commodity prices and an increasing cost of production.[1] Corn futures prices are likely to stay near $7 per bushel and chances are good that pork and competing meat supplies will increase in the next year, which will push prices lower.[2] High energy costs are also cutting into already slim margins for livestock producers, as oil is trading near $90 per barrel on the New York Mercantile Exchange and the national gasoline price average is $3.61 per gallon.[3] High input costs and the threat of declining prices for meat are resulting trying in times for livestock producers.

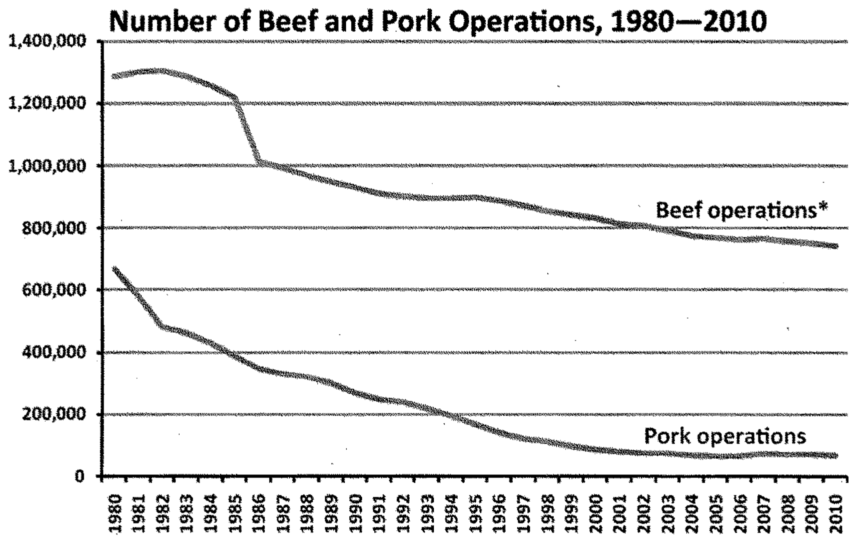
Processors have not shared the difficulties faced by producers. Last week, Smithfield Foods Inc., announced record profits for Fiscal Year 2011. The company's pork segment produced a record fourth quarter operating profit with an earnings increase of 77 percent and fresh pork operating

[1] *World Agricultural Supply and Demand Estimates*. United States Department of Agriculture & World Agricultural Outlook Board. June 9, 2011.
[2] Johnston, Greg. "Pork Producers brace for flood of red ink." Agriculture.com. Published June 10, 2011. Retrieved June 21, 2011.
[3] Scherer, Ron. "U.S. to tap Strategic Petroleum Reserve to drive gas prices down." Christian Science Monitor online. Published June 23, 2011.

profits jumped by $106 million.[4] The disparity between the economic plight of farmers and ranchers versus that of packers and processors is the biggest issue in the livestock industry. My testimony will examine the current status of these inequities and what can be done to ensure fairness in the livestock marketplace.

Concentration in the Livestock Industry

Figure 1:



Figures courtesy of the USDA Economic Research Service.

**Beef operation numbers were counted differently between 1980 and 1985. 1980 – 1985 figures on this graph were found by subtracting the ERS-reported number of dairy farms from "operations with cattle and calves."*

The livestock marketplace experienced a marked decline in the number of family farms and ranches over the last 30 years. In 1980, there were approximately 1,285,570 beef cattle operations across the country but as of 2010, only 742,000 remained. This is a decline of approximately 42 percent. In swine, the reduction has been even more dramatic. In 1980, there were 666,550 hog farms but in 2010 there were only about 67,100.[5] Between the losses of pork and beef operations, rural America has suffered through the closure of about 1.1 million

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[4] "Smithfield Foods Reports Record Fourth Quarter and Full Year Results." Press Release. Smithfield Foods, Inc. PPublished June 16, 2011. Accessed online at: http://investors.smithfieldfoods.com/releasedetail.cfm?ReleaseID=585415

[5] USDA National Agricultural Statistics Service. 2010 Figures

livestock farms in thirty years. As more and more farms and ranches have closed, concentration among livestock sellers has become an increasingly important issue, not only for producers, but also for rural communities and consumers.

As the number of livestock producers has shrunk, there are fewer large buyers of livestock today than any other time in recent history. The top four beef packers have control over 81 percent of the sales of cattle for slaughter in the U.S., and the top four swine processors control about 65 percent of hog sales.[6] Fewer buyers result in less competition and greater opportunity for antitrust violations. Not coincidentally, the farmers' and ranchers' share of the consumer retail dollar for purchases of meat is shrinking. In 1980, beef producers received, on average, 62 percent of the retail dollar. That portion has fallen to about 42 percent today. Over the same time frame, hog producers saw their share shrink from 50 percent of the retail dollar to about 24 percent.[7] These statistics make it overwhelmingly clear that concentration is on the rise in the livestock marketplace and competition is declining.

During the last thirty years, there have been new processing standards placed on the meat industry and greater spending on marketing, but it should be known that costs between the slaughterhouse and the supermarket have come at the cost of the producers' share of the food retail dollar. These statistics are an indication of the scant market power of farmers and ranchers in today's livestock sector.

Enforcement of the Packers and Stockyards Act

Many Farmers Union members are engaged in livestock production. Our members felt the ill-effects of a consolidated marketplace that too often fails to provide farmers, ranchers and growers with the true value of their production. The proposed GIPSA rule, issued in accordance with Title XI of the 2008 Farm Bill and the authorities afforded the U. S. Department of Agriculture (USDA) under the Packers and Stockyards Act, is an important step forward for the rights of agricultural producers. The proposed rule, if implemented and enforced, would restore many of the common sense protections that were provided under the initial intent and interpretation of the PSA. As a result, NFU filed comments that were, in general, very supportive of the proposed rule. The comments also included some recommendations and questions for further clarification when promulgating the final rule.

NFU has been seeking an effective balance between regulators and other agricultural interests so that livestock and poultry producers may be treated fairly in the marketplace. The policy language agreed to by NFU members supports this. For example, in 1956, NFU adopted policy that asked federal regulators to start "a continuous Congressional investigation into the widening spread between prices received by farmers and those paid by consumers. If necessary, regulatory measures should be instituted."[8] In 1982, NFU policy asked "Congress amend the Packers and Stockyards Act to strengthen its enforcement provisions, with effective penalties for violations."[9] And in 1997, NFU's policy called for regulatory agencies with "jurisdiction over the PSA" to "vigorously prosecute and break up existing monopolistic entities, fully investigate all proposed mergers in the livestock industry, and prevent further monopolistic concentration with the use of

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[6] Heffernan, William and Hendrickson, Mary. "Concentration of Agricultural Markets" University of Missouri. April 2007.
[7] USDA Economic Research Service. "Meat Price Spreads," 2010 Figures.
[8] "1956 Policy of the National Farmers Union." Adopted at Denver, Colo.
[9] "1982 Policy of the National Farmers Union." Adopted at Washington, D.C.

effective penalties."[10] Adequate oversight of the livestock marketplace, as provided in the proposed rule, has been sought at various times by farmers and ranchers throughout the 90-year life of the PSA.

Under the current administration, USDA has been proactive in ensuring that farmers, ranchers and growers are protected from illegal or deceptive anti-competitive business practices. In 2010, U.S. Secretary of Agriculture Tom Vilsack proposed an increased budget for GIPSA "to improve enforcement of unfair and deceptive practices in the marketplace."[11] Antitrust violations in agriculture have been at the forefront of the current administration's priorities for other departments as well. U.S. Attorney General Eric Holder made it clear in March 2010 that "an historic era of enforcement" is upon competition regulations in agriculture.[12] The joint workshops held by the U.S. Department of Justice (DOJ) and USDA demonstrated the level of commitment to these issues and explored competition issues further. The proposed GIPSA rule would provide stronger protections for producers and directly addresses the concerns that NFU members have raised for many years.

Since its enactment nearly 90 years ago, the PSA has faced tremendous opposition from powerful packing and processing interests. Despite USDA's contention that smaller producers – the individuals for whom the PSA was designed to protect – should be safeguarded from anti-competitive behavior, judicial rulings have hampered enforcement of the PSA in the same manner as other antitrust laws. Jury decisions against packers and integrators for violations of the PSA have been overturned by circuit courts due to ambiguity in the act's language. In *Schumacher v. Cargill Meat Solutions*, a jury found that packers knowingly used manipulated prices for boxed beef sales to negotiate favorable prices from cattle sellers. However, the Eighth Circuit Court of Appeals remanded to the lower court, saying that the district court neglected to instruct the jury that it was necessary to prove that "defendants acted intentionally" to violate the PSA and that the plaintiffs did not produce any evidence to that end.[13] The Eighth Circuit contended that the PSA's use of the words "manipulate" and "control … suggested that some culpability, such as intent, is required to violate the PSA."[14] However, the court did not offer an opinion on the damaging effects the boxed beef prices had on cattle sellers. To prevent future reversals of jury decisions, the proposed rule clarifies the intent of the PSA and affirms the authority granted to GIPSA to address unfair business practices. NFU strongly supports this provision.

The proposed rule will help to ensure fairness, transparency, protection and bargaining rights for producers, and should help to restore at least a degree of competition for agriculture markets. A lack of market power is but one of many reasons for a shrinking population of farmers and ranchers, but stronger enforcement and greater clarification of the PSA should help to slow and hopefully reverse that trend.

Several years ago, lawmakers recognized the need for the PSA to be fully enforced and better explained in regulations. In January 2006, a report by the U. S. Government Accountability

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[10] "1997 Policy of the National Farmers Union." Adopted at Nashville, Tenn.

[11] Remarks by Secretary Vilsack, August 27, 2010 – USDA/DOJ Workshop; Fort Collins, Colo.

[12] Remarks by Attorney General Holder, March 11, 2010 – USDA/DOJ Workshop; Ankeny, Iowa.

[13] *Annual Review of Antitrust Law Developments 2008.* American Bar Association, 2009. Schumacher v. Cargill Meat Solutions Corp., 515 F. 3d 867, 872 (8th Cir. 2008)

[14] U.S. Court of Appeals, Eight Circuit. *Schumacher v. Cargill Meat Solutions Corp.* Nos. 07-1586, 07-1588, 07-1590. January 29, 2008. *Id.*

Office (GAO) revealed GIPSA failed to enforce laws created to combat increased consolidation and anticompetitive practices. The audit report revealed GIPSA had no policy to define investigations and was not maintaining accurate records in a tracking system. The agency's administration had not implemented previous recommendations from the Office of the Inspector General or GAO.[15] Inadequate oversight of GIPSA resulted in ineffective enforcement of the PSA for years. As a result, NFU, along with more than 200 other organizations from across the country, urged Congress to include a livestock title in the farm bill to improve market fairness and competition for producers.[16] Because of the challenges livestock producers were facing, Congress recognized the need for a separate section in the omnibus farm legislation to address competition problems in the livestock sector. For the first time ever, the 2008 Farm, Conservation and Energy Bill included a livestock title so that the integrity of the livestock and poultry market might be better restored. The language in the 2008 Farm Bill included specific directives for USDA and GIPSA to, among other provisions, "promulgate regulations with respect to the PSA to establish criteria that the Secretary will consider in determining … whether an undue or unreasonable preference or advantage occurred in violation of the act."[17] Through the livestock title of the 2008 Farm Bill, Congress revised the PSA so as to clarify language that had previously prevented effective producer protections.

The 2008 Farm Bill required USDA to conduct an annual review of investigations of potential violations of the PSA to improve oversight and enforcement. Additionally, the farm bill called for USDA to provide a yearly compliance report detailing the duration and methods of the investigations. Studies of alleged PSA violations were required to be tracked and documented throughout the enforcement process and were to include a review of actions taken by GIPSA, DOJ and USDA Office of General Counsel. Furthermore, the 2008 Farm Bill included provisions to reform contracts between producers and packers. Contract reforms, such as optional arbitration, which offer producers the opportunity to decline mandatory arbitration clauses in a livestock or poultry contract, were introduced. The bill clearly delineated the right of swine and poultry growers to cancel a contract within three days of signing a document with a processor or integrator. This requirement gives producers the same contracting rights that are commonly afforded under consumer protection laws.

Many of the changes in the proposed rule have come as the result of the directives of the 2008 Farm Bill, but some aspects go beyond what was mandated in the omnibus farm legislation. Under the PSA, GIPSA is granted the authority to write rules to enforce the law without additional approval from Congress. The proposed rule currently pending combines the required changes from the 2008 Farm Bill with additional modifications that are allowable under the PSA. The changes not mandated by the farm bill are within the authority of the agency and are well within the scope of the PSA.

Using its existing authorities under the Packers and Stockyards Act, USDA has written proposed regulations, as part of the proposed GIPSA rule, to prohibit retaliation by packers, swine contractors or poultry companies against farmers for speaking out in opposition to the status quo in the livestock industry. Reports of this nature have surfaced when producers raised concerns about the problems within the livestock industry, joining with other farmers to voice their

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[15] USDA Office of Inspector General, *GIPSA's Management and Oversight of the Packers and Stockyards Programs*, Report No. 30601-01-Hy (Washington, D.C.: Jan. 10, 2006)
[16] USDA GIPSA, Release No. 0326.10. June 18, 2010.
[17] Food, Conservation and Energy Act of 2008. Title XI, Section 11.0006.

concerns to seek improvements, or raising these concerns with federal officials. Testimony during workshops held throughout 2010 by the DOJ and USDA showed that these abuses have been happening and are continuing, and independent producers will be hard-pressed to succeed in the absence of protection from unfair, anti-competitive practices.

Justification of Premiums

The proposed rule contains provisions that will enable regulators to identify unfair trade practices, as defined by the PSA. The GIPSA rule expressly allows premiums to be paid to livestock producers who produce a premium product, a fact that stands in stark contrast to the claims of many who oppose the rule. The rule requires packers or swine contractors to keep records to detail why certain pricing and contract terms are provided to certain producers. As is described in Section 201.94 (B) of the proposed GIPSA rule, "A packer, swine contractor or live poultry dealer must maintain written records that provide justification for differential pricing or any deviation from standard price or contract terms offered to poultry growers, swine production contract growers or livestock producers." NFU strongly supports this measure with the understanding that regulating undue preference among producers by processors may not be best solved by a one-size-fits-all approach. The differing needs of each sector ought to be considered and particular attention must be paid to situations of unequal market power.

Justification of producer treatment is not an onerous burden to place on packers and processors. Any enterprise that is operating honestly should be maintaining records of why and how business decisions are made. There is a need for explanations of the reasoning behind the treatment that packers, swine contractors or live poultry dealers afford to producers. Unfounded and arbitrary punishments meted out to farmers, ranchers and growers have reportedly resulted from simple expressions of free speech, including sharing contract terms with other producers or speaking out about market abuses by packers. The proposed rule clearly defines and prohibits volume-based price discrimination. Rewarding high-volume producers – or punishing lower-volume producers – drives smaller-scale producers out of business in the effort to concentrate production. Packers and processors should not be able to wield this amount of power over producers, and the proposed rule addresses this concern by prohibiting such action unless it is based on legitimate differences such as quality or timeliness.

The method for harvesting this information does not need to be overly intrusive. The rule would allow producers, processors and retailers to maintain records in a manner of their choosing as long as the information is available and can be transferred to a standardized format in the event of an audit by USDA. Because the data that would be collected is not anything beyond what any other business would track, this should not be considered a threat to viability. These are merely normal business records.

USDA has asserted that the proposed rule will not preclude packers and processors from using marketing and production contracts that provide premiums to producers.[18] Even if the proposed rule precluded marketing agreements as some livestock and poultry interests have inaccurately claimed, quality cattle can still be obtained from the cash market. Packers' own data show they

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[18] USDA GIPSA "Statement by Under Secretary Avalos: Misconceptions and Explanations of the GIPSA Proposed Rule." July 26, 2010. "There is no provision in the proposed rule that would limit or eliminate the ability of companies to provide premiums to reward producers for providing certain quantity or quality of livestock."

have been buying two million cattle annually for the last six years from cash markets, which makes up about six percent of the national annual cattle slaughter total.[19] Additionally, high quality cattle are available on the cash market, as 27.8 percent of cattle sold on cash grid market between April 2004 and August 2010 graded "more than 80 percent choice."[20] Moreover, if packers and processors agree to pay one price for all livestock, harm to competition could be alleged, raising the possibility of class action litigation on behalf of consumers and producers under the PSA. Agreement by packers to pay one price also raises the possibility of litigation under Sherman and Clayton Antitrust Acts, as collusion is a "per se" violation, carrying civil as well as criminal penalties.

The proposed rule would reduce litigation in the industry by eliminating the ambiguity in interpretation of the terms of the PSA. Such ambiguity leads to lawsuits as farmers and packers seek court action to clarify the intent of the PSA, which has become convoluted by recent court decisions as previously discussed in this testimony. That the proposed rule would increase litigation among participants in the livestock industry is unfounded, but the mistaken notion that it would do so has been used as the foundation of a number of economic studies used in opposition to the GIPSA rule.

A study released by the American Meat Institute in October 2010 made the dubious assertion that the rule will "change longstanding judicial precedent to make it easier for a disgruntled supplier to sue and win in a PSA lawsuit."[21] Since the law was enacted in 1921, the widely held interpretation of the PSA was that farmers and ranchers who had been victims of a processor's anti-competitive practices were not required to prove that the damage done to them had impaired competition across the entire livestock industry.[22] An individual producer was simply required to prove that he had been harmed in order to be protected by the PSA. It was not until 2005 that a U.S. Court of Appeals ruling went against the long-standing judicial precedent and required farmers and ranchers to prove harm to the entire industry.[23] The proposed rule restores the original intent of the PSA and affirms the opinion of USDA, which dissented from the 2005 U.S. Court of Appeals decision in its interpretation of the PSA.[24] Additionally, the first 81 years of the PSA were not rife with litigation and processors were able to use marketing and production contracts.[25] To claim that the proposed GIPSA rule would result in prohibitive levels of litigation ignores both history and the content of the rule.

One Year of Defending the GIPSA Rule

There have been many attempts in the past year to circumvent the completion of the standard rulemaking process. The agriculture appropriations bill passed by the House of Representatives for FY 2012 included language that would withhold funds from any effort to implement the proposed GIPSA rule. USDA has indicated that it is still evaluating the 60,000 comments received during the 2010 comment period on the initial GIPSA rule proposal and is carrying out

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[19] USDA National Agricultural Statistics Service. 2008 Figures.

[20] "Restoring Economic Health to Beef Markets" Domina, David A. and Taylor, C. Robert. August 25, 2010.

[21] "GIPSA Methodology," John Dunham and Associates, Inc.

[22] *London v. Fieldale*. 410 F3d 1295. 11th Circuit Court of Appeals. 2005. The judge's opinion overturned the long-held judicial opinion that the PSA did not require "industry-wide competitive damage."

[23] Federal Register. Volume 75, No 119. Pg 35342. June 22, 2010.

[24] Lubbers, Jeffrey S. *Developments in Administrative Law and Regulatory Practice, 2004 – 2005.* Pages 172 – 174.

[25] "Restoring Economic Health to Beef Markets" Domina, David A. and Taylor, C. Robert. August 25, 2010.

an economic analysis of the rule.[26] This economic study comes in addition to a cost-benefit analysis performed by USDA when the rule was proposed in June 2010.[27]

USDA's economic analysis determined that the potential benefits of the proposed rule will be greater than the costs. USDA found that any additional costs to packers and processors would be due primarily to the effects of a more competitive and open marketplace. Benefits include greater market access for producers, greater availability of information needed by producers for contract negotiations and the reduction of deadweight losses that result from very few buyers dominating many sellers with little market power, among other improvements.[28] It may also be worth noting that many of the organizations that called for further economic review of the rule also called for the review to be defunded in the agriculture appropriations bill for FY 2012.

NFU and dozens of other producer organizations have been outspoken in their support for the GIPSA rulemaking process and have urged USDA to expeditiously promulgate the final version of the GIPSA. NFU and 143 other organizations, including rural community, faith-based, and consumer interests, sent a letter to the House and Senate in favor of the GIPSA rule, which is attached. In November 2010 and February 2011, NFU and allies hosted briefings in the House and Senate to allow congressional staff the opportunity to meet informally with producers who support the GIPSA rule. These same organizations have led two call-in drives to the White House, the most recent event being last week, to urge the Obama administration to finish and implement the GIPSA rule. They have issued reams of press statements, held dozens of interviews on the topic, and generated thousands of comments to the GIPSA rule docket.

The latest delaying tactic adopted by the processors and packer-producer organizations was the inclusion of a rider to the House of Representatives' version of the agricultural appropriations bill for FY 2011. The rider would prevent USDA from expending any funds for the completion, implementation and enforcement of the proposed GIPSA rule. Even in the face of opposition from the two largest general farm organizations in the country and dozens of other stakeholder organizations, the rider was included in the final version of the House bill. This alarming development makes it all the more important for the members of this committee to take a stand on behalf of independent family farmers and ranchers and to oppose any such riders in the Senate version of the FY 2012 agriculture appropriations budget.

In August 2010, 21 senators signed a letter to USDA in support of the proposed GIPSA rule. This letter is attached and includes language urging swift action to implement and enforce the regulations. For example, the letter states, "We urge [USDA] to issue a final rule as expeditiously as possible once the comment period is closed and the Department has reviewed the comments and made any appropriate modifications to the rule." It also recognizes the care that must be observed in putting the rule into effect, stating that, "While the proposed rule is designed to clarify and strengthen producer protections in accordance with the PSA, it should also maintain opportunities for marketing premiums and mutually beneficial contract arrangements, which it appears to do."[29] As the Senate continues to review the state of the

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[26] Statement of Administration Policy on H.R. 2112 – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. United States Department of Agriculture. Issued June 12, 2011. Access at: http://content.govdelivery.com/bulletins/gd/USDAOC-8d534

[27] Federal Register, Volume 75, Number 199. Page 35345. Published June 22, 2010. Access at: http://archive.gipsa.usda.gov/rulemaking/fr10/06-22-10.pdf

[28] Federal Register. Volume 75, No 119. Pgs 35345 - 35349. June 22, 2010.

[29] Letter to the Honorable Thomas J. Vilsack, August 15, 2010. From Sens. Harkin, T. Johnson, Grassley, et al.

livestock industry, it is important to remember that many senators have spoken out in favor of fairness and transparency in the marketplace.

Grain Buffer Stocks to Reduce Feed Price Volatility

This hearing is an opportunity for all aspects of the livestock sector to be reviewed. As such, I urge the committee to consider the possibility of incorporating a grain buffer stocks program, also known as a reserve, in our national farm policy. Livestock producers are especially interested in the option of including a mechanism to better control the wild volatility in feed prices and a buffer stocks program might very well be the most cost-effective and efficient way of doing so. Flattening the price spikes for feed commodities would make livestock production more conducive for longer-term investment and would help the next generation of farmers and ranchers to get started. From the perspective of row crop commodity production, without even a rudimentary system of supply management, our existing farm programs could be overwhelmed by a bumper crop. High production and low prices could result in huge countercyclical payments or revenue insurance payouts. In a time when government expenditures are highly scrutinized, a bumper crop of subsidies could spell disaster for the public's perception of farm policy.

In the 2010 NFU policy, our members called for the establishment of "a farmer-owned strategic national reserve for all storable commodities to ensure consumer food security, livestock feed supplies and national renewable energy needs in times of short supply." To create a functional program, a portion of the national commodity production should be held off the market in times of excess supply. The reserve would be opened to the market when ending stock ratios reach a predetermined trigger level and subsequently would be sold at a value reasonably greater than current market price. Storage rates for these reserve commodities should be paid to the farmer in advance and set at the prevailing commercial storage rate. Additionally, supply management methods should not be overly burdensome for new farmers to enter the industry, but should balance any swings that may cause unacceptable price volatility.

Grain reserves should be considered as part of a supply management system that would serve our national strategic interests. Federal policy places high value on energy; we keep enough oil in strategic petroleum reserves that would fuel our country without imports for 75 days.[30] Food and feed are even more important, and a buffer stock system would help ensure our food security as well as smooth the peaks and valleys of agricultural prices.

Conservation Efforts in the Livestock Sector

While livestock producers face many challenges in today's economy, we also have many opportunities and stewardship of our natural resources is an area that is of high importance. The goals of agricultural production and environmental quality can be mutually compatible, and farm bill conservation programs help producers accomplish both. The 2008 Farm Bill increased funding for conservation programs by $4 billion, an investment that was critically needed and greatly appreciated in the farming community.

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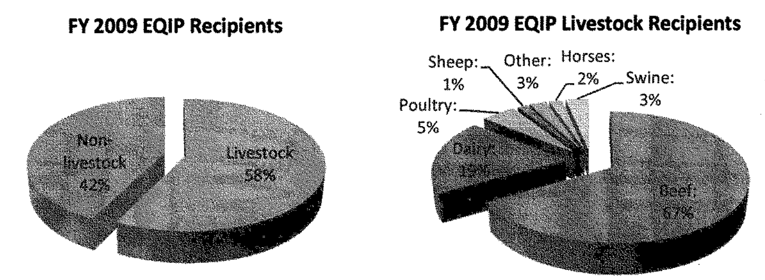
[30] U.S. Department of Energy, Office of Strategic Petroleum Reserves, "Quick Facts and Frequently Asked Questions."

One program in particular that is popular with livestock producers is the Environmental Quality Incentives Program (EQIP). Through EQIP, financial and technical assistance is provided by USDA's Natural Resources Conservation Service (NRCS) to farmers and ranchers to install and maintain conservation practices that sustain production while enhancing soil, water, wildlife and other related natural resources. NRCS develops contracts with producers to implement conservation practices to address a variety of natural resource issues related to livestock, crop production and non-industrial private forestlands. Cost share payments are made to producers once conservation practices are completed according to NRCS requirements.[31]

The 2008 Farm Bill authorized steady funding increases for EQIP from $1.2 billion in fiscal year 2008 to $1.75 billion in FY 2012. The program remains among the most popular for farmers and ranchers. In FY 2010 alone, producers enrolled more than 36,000 contracts on more than 13 million acres in EQIP.[32] In FY 2009, the program enrolled nearly 32,000 contracts for $731 million, of which livestock producers were around 60 percent of the recipients. While this represents significant conservation, there were more than 110,000 contracts that were unfunded in FY 2009.[33]

Figure 2:



Source: USDA-NRCS EQIP Program Information by Fiscal Year

EQIP is popular because of its broad application to a variety of natural resource benefits. Depending on identified local resources of concern, EQIP funding can be used to construct anaerobic digesters for manure management purposes. Some states, such as Vermont, have combined EQIP funding with funding from the Rural Energy for America Program (REAP) to utilize anaerobic digesters for renewable energy production. This innovative use of farm bill

[31] U.S. Department of Agriculture-Natural Resources Conservation Service. (2008) *Farm Bill 2008 Fact Sheet: Environmental Quality Incentives Program.* Retrieved from: http://www.nrcs.usda.gov/programs/farmbill/2008/pdfs/EQIP_factsheet.pdf

[32] U.S. Department of Agriculture-Natural Resources Conservation Service. (2010) *FY 2010 EQIP Contracts and Dollars Obligated.* Retrieved from: http://www.nrcs.usda.gov/programs/eqip/2010data/acres-and-dollars.html

[33] U.S. Department of Agriculture-Natural Resources Conservation Service (2009) *FY 2009 EQIP Data – Contracts and Funding.* Retrieved from: http://www.nrcs.usda.gov/programs/eqip/2009data/fundingdata.html

funding has significant benefits both for water quality as well as the production of renewable, on-farm energy.[34]

Another innovative approach is the potential to utilize conservation programs to avoid regulation. A recent example is the Sage Grouse Initiative, which was established in 2010 under an agreement between USDA and the U.S. Fish and Wildlife Service. The Sage Grouse Initiative is being utilized in South Dakota and other western states to ensure that NRCS programs and conservation practices will help ameliorate threats and produce significant conservation benefits to sage grouse, while providing certainty that farmers and ranchers who voluntarily implement NRCS-sponsored conservation practices that benefit sage grouse will be in full compliance with the Endangered Species Act (ESA) if the sage grouse is ultimately listed.[35] The initiative uses farm bill funding from EQIP and the Wildlife Habitat Incentives Program (WHIP) to provide financial and technical assistance to farmers and ranchers to implement conservation practices that restore sage-grouse habitat and avoid potential regulation. This relief from potential costly ESA regulation is an innovative use of conservation programs and is very attractive to farmers and ranchers. Similar opportunities could exist for conservation programs to provide farmers and ranchers regulatory relief, including water and air quality standards.

Livestock producers like EQIP because it can be broadly used for different types of operations and it provides flexibility for a variety of natural resource concerns. The single most limiting factor is lack of funding which has resulted in many contracts going unfunded. I encourage the committee to examine how conservation programs like EQIP can be efficiently and effectively utilized to provide farmers and ranchers the tools necessary to sustain the natural resources upon which we depend.

The Impact of Trade on the Livestock Sector

NFU supports trade; fair, mutually beneficial trade that seeks to increase human welfare and respects sovereign nations' need for food and national security. NFU has historically opposed free trade agreements on the basis that the agreements were more likely to increase imports rather than open new markets to U.S. goods, even for livestock and agricultural products as is often claimed by proponents.

Free trade agreements are typically justified by claims that the agreements will grant American producers access to previously closed markets and thus create jobs. U.S. agriculture, including the livestock sector, has a history of generating a trade surplus. Long-term agricultural surpluses have occurred because of our efficient system which provides a safety net for agriculture. On the other hand, the U.S. economy as a whole has a history of generating trade deficits as seen below in Figure 4.

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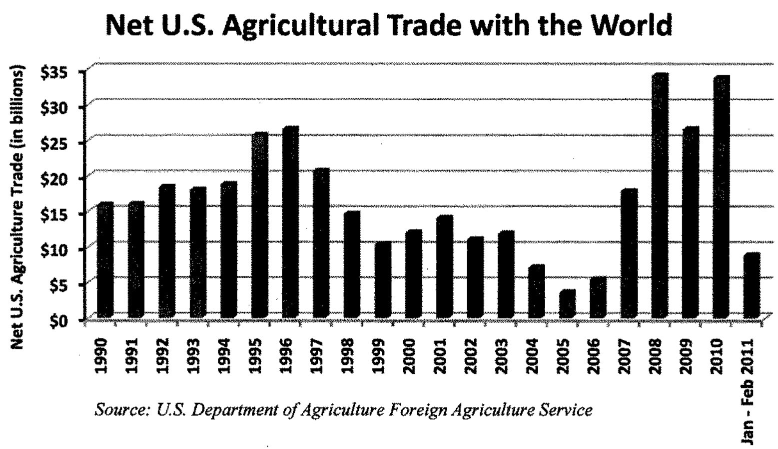
[34] Vermont Natural Resources Conservation Service. *Vermont Anaerobic Digester Partnership*. Retrieved from: http://www.vt.nrcs.usda.gov/technical/Energy/VermontAnaerobicDigester_RD-NRCS.pdf

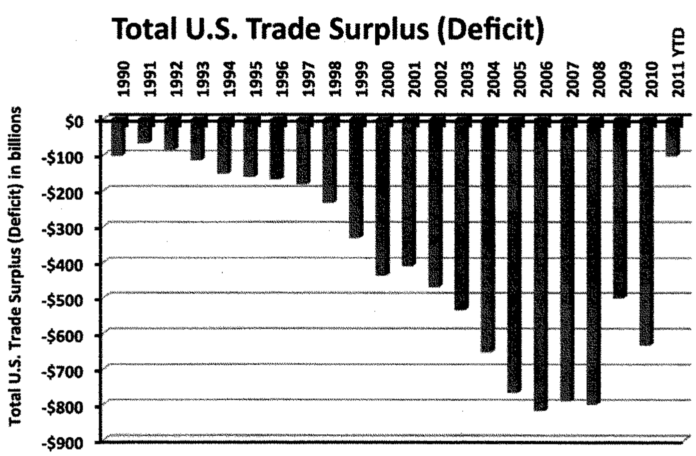
[35] U.S. Department of Agriculture-Natural Resources Conservation Service. (2010) *Partnership Agreement Between the United States Department of Agriculture Natural Resources Conservation Service and the United States Department of the Interior Fish and Wildlife Service.* Retrieved from http://www.nrcs.usda.gov/news/pdf/sage_grouse_agreement_04.13.10.pdf

Figure 3:



Source: U.S. Department of Agriculture Foreign Agriculture Service

Figure 4:



Source: U.S. International Trade Commission (ITC)

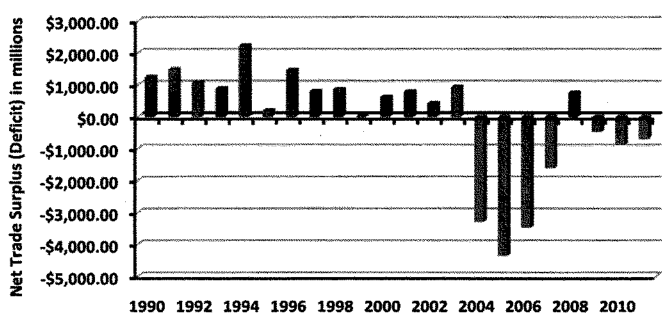
During the North American Free Trade Agreement (NAFTA) negotiations, for instance, members of Congress were given a list of tariff cuts for crops in their districts as evidence of the new market access their farmers would obtain. In reality, those tariff cut benefits were eliminated when Mexico devalued the peso 50 percent shortly after NAFTA went into effect.[36] These same claims are being made in regard to the proposed free trade agreement with South Korea. The U.S. International Trade Council (ITC) has estimated that "U.S. beef exports to South Korea could increase by $600 million to $1.8 billion under the FTA."[37] Unfortunately, the analysis does not take into consideration the effect of a Korean devaluation of their currency which could wipe out any gains made by reduced tariffs.

During the NAFTA debates, USDA analysts predicted an increase in U.S. exports of beef products to Mexico.[38] The reality is that beef and pork, two projected NAFTA winners, saw their exports to Mexico fall 13 percent and 20 percent, respectively, in the three years after NAFTA was implemented compared to the three years prior to NAFTA.[39]

On the whole, U.S. agriculture has actually done worse after trade agreements have been entered into than prior to the agreements. Figure 5 below shows the net agriculture trade surplus (deficit) with countries that have entered into trade agreements with the United States. Each year only includes trade data from countries with which the U.S. had a free trade agreement in that year. This subpar performance contrasts with U.S. agriculture's performance as a whole, as depicted in Figure 1. For example, the 1998 data includes only trade information with Israel, Canada and Mexico.

Figure 5:

Net Ag Trade Surplus with Countries That Have FTAs with the U.S.



Source: U.S. Department of Agriculture Foreign Agriculture Service

[36] Espana, Juan R. (July, 1995) *The Mexican peso crisis: impact on NAFTA and emerging markets.* Retrieved from http://findarticles.com/p/articles/mi_m1094/is_n3_v30/ai_17221265.
[37] *Cooper, William F. (June 17, 2009) The Proposed U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implications.* CRS Report RL34330.
[38] *Congressional Budget Office. (May 1993) Agriculture in the North American Free Trade Agreement. Retrieved from* http://www.cbo.gov/ftpdocs/64xx/doc6444/93doc176.pdf.
[39] Calculations based on data obtained from the USDA Foreign Agricultural Service's (FAS) Global Agricultural Trade System on Jan. 21, 2011. Data was inflation-adjusted using the Consumer Price Index-U-RS as estimated by the Congressional Budget Office in the backup data for Table C-1 of their "The Budget and Economic Outlook: An Update", released August 2010.

Conclusion

The state of the livestock sector of agriculture is a tenuous one. As a member of a pork producer cooperative, I know the struggles that farmers and ranchers face in finding a way to make ends meet. There are many challenges today for livestock producers in America because the livestock marketplace is not entirely competitive, the regulatory climate is not always certain, prices are extremely volatile and the economic recovery has been sluggish.

Thank you for inviting me to be a part of this hearing of the Senate Committee on Agriculture, Nutrition and Forestry. I welcome any questions you may have.

Testimony
Submitted to the

United States Senate Committee
On
Agriculture, Nutrition and Forestry

Senator Debbie Stabenow, (D-Michigan), Chairwoman
Senator Pat Roberts, (R-Kansas), Ranking Member

Submitted by Hans C. McPherson

McPherson Farm
Stevensville, Montana
June 28th, 2011
Washington, D.C.

Madam Chairwoman, Senator Stabenow, Ranking Member, Senator Roberts and members of the committee. My name is Hans McPherson; I operate a diversified family farm located in Stevensville, Montana. My family heritage for many generations has been in production agriculture. We have farmed in the Bitterroot valley of Montana since 1953. There are currently four generations living on our family farm. During this time I have personally witnessed many changes in agriculture, some for the better, and some maybe not so good.

As a High School freshman 44 years ago, one of the first things I learned was the Future Farmer of America Creed. Some highlights of this Creed were:

- I believe in the future of farming
- I believe in the promise of better days in better ways
- I believe in less need for charity and more of it when needed

Even though the Future Farmers of America has changed (now the FFA) and the creed has been tweaked, the message remains the same, I do believe in the future of farming. We need to make sure rural America stays strong, as it is the backbone of the American way of life.

The fact is Rural America is under attack. Less than 2% of the American population now lives and works on family farms, yet American family farms account for the vast majority of American food and fiber. Even though 98% of farms are family owned and operated, we cannot seem to shed the image that all farms are large corporate farms.

Although multiple generations live on our family farm in Montana, there are many urban citizens that are many generations removed from "grandpa's" farm. They cannot comprehend where their food comes from and what struggles it takes to produce the most abundant, safest, most affordable food in the history of the world. The average American consumer works just 37 days a year to pay for an entire year's food cost. Never before have people worked less to eat more, yet the American family farm remains under attack.

Family farms have seen their political clout erode as our farms disappear into the never ending vacuum of urban sprawl. Continued attacks by animal rights groups, a less than friendly media and increasing regulation keep agriculture at razor thin margins. Even though commodity prices are currently strong, dramatic increases in farm inputs and regulatory costs is fueling a rapidly disappearing buying power.

As you begin to undertake the task of writing the 2012 Farm Bill, let's quit calling it the Farm Bill and call it what it is, The Food Conservation and Energy Act. The press negatively implies that billions of dollars are going to subsidize greedy large corporate farms. The truth of the matter is that the majority of the appropriations go to insure that less fortunate Americans such as disabled seniors and school children receive proper nutrition. As the FFA creed says, *More of it when needed!*

I believe USDA programs should be a safety net for American family farms, not a primary source of income. If we want to keep farmers on the farm, we must make it profitable. Farmers generally would never sell land for subdivision if they can make a reasonable living by keeping it in production agriculture.

I would like to focus my testimony on two very important aspects of the Farm Bill, both from the point of view of a "Family Farm Livestock Producer".

I would begin with conservation programs. It is an old cliché that farmers are the original environmentalists. This is true. What kind of farmer would ever purposely deplete his soil and foul the water to the point that there was nothing left to pass on to the next generation. The success of the conservation programs of the USDA/FSA/NRCS are nothing short of spectacular. There may be no way of truly measuring the environmental benefits to the American people from 25 years of the Conservation Reserve Program (CRP). Current regulations allowing haying or grazing in the rotation have increased the benefits of CRP to the family farm livestock producer. CRP land can also be a great safety valve for family farmers affected by floods, drought or fire, as we are seeing this year in many parts of the country. Allowing for places to go with livestock for short periods of time while normal grazing areas may be affected and providing winter forage through haying may be the only thing that keeps many family farms in business in the next few months.

The Conservation Stewardship Program (CSP), administered by the NRCS is another great opportunity for the family farm livestock producer. With funds from these types of programs, producers have some breathing room and are able to have the opportunity to make a profit, while giving the American public environmental benefits.

The second issue I would like to address is the permanent disaster programs. I feel very fortunate to be able to say that I have very little personal experience with disaster programs but strongly feel they need to be continued with a new Farm Bill. These programs provide a very important safety net to the American family farmer when struck by disaster that is beyond their control. The cost of these programs are a very small portion of the Food Conservation and Energy Act, but their importance to the family farmer who finds themselves in need often make the difference between success and financial failure. If there is a way to make these programs more expeditious, it would be a great benefit. When disaster strikes, income stops but the bills go on! I would like to stress that the Conservation title of the 2012 Farm Bill is a very important link to success or failure in rural America. Programs should be balanced between environmental benefits and production agriculture reality. Tipping the scales either way on these issues jeopardize benefits to America's family farmers.

I would like to thank this committee for the opportunity to testify. I would especially like to thank Montana's Senator Max Baucus "Max" and the staff for this invitation and leave with two parting thoughts.

The first is research, if farmers are going to continue to feed the world and compete in a world-wide economy, research must be well funded. Secondly, no matter how well written the 2012 Farm Bill turns out and how beneficial the programs are for the American family farmer, it will mean nothing without the link between this legislation and the agricultural producer and the local FSA program technician.

Again, thank you and I leave you with the final paragraph of the FFA Creed,

"I believe rural America can and will hold true to the best traditions of our national life and that I can exert an influence in my home and community which will stand solid for my part in that inspiring task."

The Future Farmers of America Creed

I believe in the future of farming, with a faith born not of words but of deeds – achievements won by the present and past generations of agriculturists; in the promise of better days through better ways, even as the better things we now enjoy have come to us from struggles of former years.

I believe that to live and work on a good farm, or to be engaged in other agricultural pursuit, is pleasant as well as challenging; for I know the joys and discomforts of agricultural life and hold an inborn fondness for those associations which, even in hours of discouragement, I cannot deny.

I believe in leadership from ourselves and respect from others. I believe in my own ability to work efficiently and think clearly, with such knowledge and skill as I can secure, and in the ability of progressive agriculturists to serve our own and the public interest in producing and marketing the product of our toil.

I believe in less dependence on begging and more power in bargaining; in the life abudndant and enough honest wealth to help make it so – for others as well as myself; in less need for charity and more of it when needed; in being happy myself and playing square with those whose happiness depends upon me.

I believe that rural America can and will hold true to the best traditions of our national life and that I can exert an influence in my home and community which will stand solid for my part in that inspiring task.

The creed was written by E.M. Tiffany, and adopted at the 3rd National Convention of the FFA. Revised at the 38th Convention

Testimony of Rick Sietsema
Chief Financial Officer, Sietsema Farms
Allendale, Michigan
on Behalf of
The National Turkey Federation
June 28, 2011

Good afternoon, Chairwoman Stabenow, Ranking Member Roberts and members of the committee. My name is Rick Sietsema, partner, member, and CFO of Sietsema Farms and our related businesses in Allendale Michigan. I want to thank the committee for inviting me to discuss the state of the U.S. livestock industry today.

Sietsema Farms' production facilities are located throughout West and Central Michigan. We are an integrated agriculture business raising grain crops, livestock, producing feed from our two feed mills, leasing out local retail facilities, and operating a True Value Hardware. We're a multi-generational, family owned business with our roots firmly imbedded in agriculture.

As a member of Michigan Turkey Producers we raise a quarter of the 4.6 million turkeys produced in the state of Michigan and marketed both domestically and internationally. Together as a Co-op of producers we employ over 800 associates with a total payroll exceeding $18 million, and an additional $6 million in benefits. Production inputs of feed stuffs, utilities, and local support for processing, maintenance, shipping, and marketing exceeds $85 million annually. In addition to this are 44 farm production sites with their associated land and tax base. As a whole, Michigan Turkey Producers has an economic impact in excess of $120 million in West Michigan.

Sietsema Farms is also involved in the swine industry, operating production facilities and maintaining several partnerships raising 700,000 head of market hogs and genetic seed stock annually. As a Newsham Genetics supplier, we produce and deliver replacement breeding stock across the Mid-West and Ontario Canada. We employ more than 150 associates and have contract grower relationships with another 100 family owned and operated farms. The economic impact to Michigan and neighboring states, including Ontario, exceeds $135 million, plus that of the additional 100 family owned and operated farms that grow and finish hogs for Sietsema Farms.

With our agricultural focus Sietsema Farms has proactively worked with Natural Resource Conservation Services (NRCS) and its available programs. We are enrolled in the Conservation Security Program (CSP) for crop production across 1,500 acres. We've also enrolled 13 acres of buffer strips (15 feet wide) around productive crop land in the Conservation Reserve Program (CRP), as well as installed several Shallow Water Wildlife Areas to assist in water runoff and sediment capture from productive farm land. The Environmental Quality Incentives Program (EQIP) has been utilized for the construction of several manure storage facilities that safely hold turkey manure for future land application or sales. In the near future turkey litter from our production facilities will be delivered to our new state of the art biomass gasification facility (see attached article). With this facility Sietsema Farms' turkey production will be a closed environmental loop as we produce our own electric and gas needs for the feed production of our turkeys and swine, greatly reducing our carbon foot print.

USDA Rural Development has been a significant resource contributing to our ability to invest great amounts of capital into agriculture. When our market for turkeys was going to be closed when Sara Lee moved out of the state of Michigan in the late 1990s, USDA Rural Development loan guarantees made it possible for the group of growers to get access to the needed credit to facilitate the construction of both a turkey processing facility, and a further processing and cooking plant. USDA Rural Development was also significant in our ability to fund the gasifier facility noted above, which is the first of its kind in the world.

Sietsema Farms has been Michigan Agriculture Environmental Assurance Program (MAEAP) verified for the past 7 years in Livestock Production, Farmstead, and Cropping. We continue to support and encourage Michigan farms to participate in this industry leading, voluntary environmental verification program.

This is the state of our business at Sietsema Farms and where we fit in the industry today. Let me share with you our thoughts, opportunities, and concerns as we move forward in agriculture with the next generation.

Structure of Today's Turkey Industry

Most people would characterize the turkey industry as vertically integrated and while the assessment is relatively accurate, it fails to capture the diversity of operations that make up today's industry of 270 million turkeys raised per year.

The industry is vertically integrated in the sense that the individual processors make the decision about how many turkeys will be raised and marketed, and growers raise birds in accordance with those production plans. In many cases, the vertical integration follows the classical model: the processor, or integrator, owns the turkeys throughout their lifespan. The processor provides turkeys to a grower and also supplies the feed and health services necessary to raise the bird to maturity. The grower in turn provides the housing and his or her expertise in raising turkeys and is compensated by the processor based on a variety of factors, including weight gain, efficient use of feed, and low mortality rates.

In other instances, turkeys are raised on a marketing contract. In this situation, the grower owns the turkeys throughout their life cycle and provides the feed and health services, as well as the housing and production expertise. The processor then purchases the turkeys at a previously contracted price. Certain premiums may be paid based on factors outlined in the contract.

Finally, some turkeys are raised on company-owned farms. In this model, the company not only owns the turkeys throughout their life cycle and provides feed and health services; it also provides the housing and employs growers to oversee the production.

Some companies exclusively use one model or another. At Michigan Turkey Producers, we as a Co-op of 16 members have a production plan that is periodically reviewed by a board of members that establishes the quantity of turkeys and an agreed upon pricing model that will allow for appropriate production levels to maximize the Co-op's ability to remain profitable during various industry cycles. However, it also is common in the industry for companies to use multiple production models. Some will raise birds on production and marketing contracts while others will utilize a mixture of production contracts and company-owned farms.

Structure of Today's Pork Industry

Pork production has changed dramatically in this country since the early 1990s. U.S. pork farms have changed from single-site, farrow-to-finish (i.e., birth-to-market) production systems that were generally family-owned and small by today's standards, to multi-site, specialized farms many of which are still family-owned. The changes were driven by the biology of the pig and the business challenges of the modern marketplace. Separate sites have assisted in controlling troublesome and costly diseases and enhanced the effect of specialization. Larger operations can spread overhead costs (such as environmental protection investments and expertise) over more farms and purchase inputs in larger lots to garner lower input costs. This change in size has been the natural result of economies of scale, plain and simple.

Marketing methods have changed as well. As recently as the early 1980s, a significant number of hogs were traded through terminal auction markets. Many producers, though, began to bypass terminal markets and even country buying stations to deliver hogs directly to packing plants to minimize transportation and other transaction costs. Today, very few hogs are sold through terminal markets and auctions, the vast majority of hogs are delivered directly to plants.

Pricing systems have changed dramatically as well, from live-weight auction prices to today's carcass-weight, negotiated or contracted prices, with lean premiums and discounts paid according to the predicted value of individual carcasses. The shift to lean premiums and discounts was largely responsible for the dramatic increase in leanness in pork seen in the 1990s.

Today, the prices of about 5 percent of all hogs purchased are negotiated on the day of the sale. All of the other hogs are packer-produced or sold through marketing contracts in which prices were not negotiated one lot or load at a time but determined by the price of other hogs sold on a given day, the price of feed ingredients that week, or the price of lean hog futures on the Chicago Mercantile Exchange. These newer risk-management mechanisms are entered into freely and often aggressively by producers and packers alike to ensure a market for and a supply of hogs, respectively, and to reduce the risks faced by one or both parties.

Feed Inputs and Grain Policy

The road to profitability begins with production costs. Feed is the most expensive of these inputs, accounting for 60-70 percent of the cost of raising turkeys and swine. Livestock is fed a mix of corn and soybean meal, with corn accounting for again roughly 60-70 percent of the ration. When feed costs increase dramatically, the industry's profit margins shrink accordingly. If there is an oversupply of turkey, pork, or all meat proteins, or if the general economy cannot support passing the increased feed costs to customers, then the industry begins to lose money rapidly.

This certainly was the case in 2008 and 2009. Corn prices and the resulting feed costs nearly quadrupled in a span of barely two years. Smart hedging strategies kept feed costs manageable for much of 2007, but by the end of that year production costs had reached a point where virtually everyone in the livestock industry, and everyone else who produced/processed/or marketed meat and poultry products, had to pass cost increases along.

For the past decade the livestock industry has been conservative with its growth and expansion of live production. However, when prices rise to a certain point, livestock and poultry producers begin to increase production to take advantage of the strong prices. Economists are fond of saying about the meat and poultry industry that "nothing cures high prices like high prices." The resulting increased production eventually reaches a point where the market has too much meat protein available, or too much of a certain meat protein, and prices begin to fall. In the mid-1990s feed costs were high then, too, but those high costs were the result of specific global weather events and were relatively short lived. It took the turkey industry, the pork industry and, to a lesser extent, the beef and chicken industry longer to work through the oversupply issue.

The situation in 2008 was different. The industry did not lose its discipline. Real consumer demand for turkey, pork, and all meat proteins had been rising for several years. There was no reason to believe that consumers would not support another year of production increases, so most companies made expansion plans. The year began with most industry observers anticipating an overall production increase of 5 percent or more. It was at that time when the run up in grains due to short supply and ethanol demand became ever more apparent.

Future Challenges

The biggest reason the industry is not more optimistic in the face of strong prices is feed costs. Corn and other feed prices have begun to rise again, going from less than $4 per bushel for corn to more than $7 per bushel in barely a year.

We can find a lot of economists who give conflicting arguments as to why feed costs have gone up, and I'll quote some of their statistics in a minute, but you really only need old-fashioned common sense to understand that the ethanol policy is driving these cost increases. When the Renewable Fuels Standard (RFS) was implemented in 2006, corn prices were around $2.50 per bushel. By the end of the first year of the RFS, prices were well above $3 per bushel and as the RFS increased, corn prices kept rising, ultimately topping out at $8 per bushel.

I know the arguments that speculative funds were what drove up corn prices, and they played a role. But, what attracted those funds to the corn market in the first place? The knowledge that the federal government had created a guaranteed market for corn-based ethanol. It's as close to a sure thing as you can get when it comes to a commodity investment.

Ultimately, farmers responded by planting more corn, and enjoyed several years of very good harvests. Corn prices settled back a bit, though they operate at a permanently higher plateau where $3.50 per bushel now is the "low end" of the price range. But, there is a major problem with this new dynamic. The market can only absorb the ever-increasing demand for ethanol if we have ever-increasing corn harvests. If the harvest is off only slightly, as was the case with the crop just harvested and projections moving forward, prices have begun to soar once again – this time to record highs. Think about it: we just harvested the third-largest corn crop in U.S. history, and that hasn't been sufficient to prevent a stocks-to-use ratio that is at or near its record low.

There is one reason and one reason only for that: ethanol. As a percentage of the total crop, feed usage is down considerably. Exports and food consumption are in line with historical levels. But, ethanol's share of the corn crop has increased from less than 10 percent at the beginning of the previous decade to almost 40 percent today. Total corn usage, driven by nearly 5 billion bushels of corn going to ethanol production, is now routinely over 13 billion bushels per year and still growing because of constantly rising renewable fuels mandates and, at least at present, soaring oil and gasoline prices, which make ethanol production more profitable. The increasing demand for corn has resulted in cash corn prices of more than $7.50 per bushel and corn futures prices well over that. Policies that convert food and feed stuffs into fuels and energy will only increase the tax payers cost of providing appropriate nutrition for the family. Be it by direct purchases or through USDA programs for school lunches, WIC, food stamps and the like.

The 2006 to 2008 run up in corn prices cost the turkey industry more than $1 billion. The current run-up in corn prices will have a significant price tag and has undoubtedly laid its toll on several meat companies with more to inevitably follow. The ethanol debate has aroused a lot of emotion on all sides, and I would like to cut through that and get to the essence of the issue:

First, we must quit pretending that ethanol hasn't had an impact on livestock and poultry farmers as well as end consumers. It has and it will continue to have one as long as these federal policies are in place. Any difficulties with this year's or next year's U.S. corn and soybean crops could be disastrous for U.S. livestock producers. We're already off to a poor start with the 2011/2012 crop year, with ever increasing reports of millions of unplanted and flooded acres. Ethical care of livestock requires producers to feed them even when feed prices are high and uneconomical to sustain. Producers cannot quickly stop production and feed usage, and they will do all they can to keep from having to market immature livestock in their care. But such action might be required should poor growing conditions develop over the next few years. The last real drought in our major corn-growing states happened in 1988, 23 years ago. The Corn and Wheat Belt is overdue for a weather shock which would dramatically reduce grain harvest.

Second, the turkey and swine industry isn't seeking to abolish all federal support for ethanol, and I think you will find the same is true for others in the livestock and poultry industry. Some ethanol supports clearly can be abolished. We thank those that voted for the Feinstein-Coburn amendment, recently, it sent a clear message that blender's tax credit must be allowed to expire. It's hard to understand why we need both a Renewable Fuel Standard (RFS) and a "blender's" tax credit. The RFS did more for ethanol production in 30 days than the blender's credit did in 30 years. Additionally, the livestock and poultry industry have grave concerns about a significant new federal investment in "infrastructure" for ethanol. Food security is as important as fuel security, and our industry receives no infrastructure subsidy from the federal government. With a guaranteed market for their product, it would seem reasonable that the ethanol industry should be profitable enough to begin developing its own infrastructure.

What the livestock industry is looking for is reform of the existing ethanol policy, a safety net that ensures that corn prices and availability will be less volatile in the future.

This goes hand-in-hand with our third point. This isn't about cheap feed. Yes, high prices hurt us, but severe volatility hurts us worse. More importantly, volatility hinders growth in the poultry and livestock industry. I heard an economist say recently that high corn prices won't hurt our industry as much this time around because we're better prepared for it. That's true, up to a point. We're better prepared because we've drastically cut production (even at a time when corn prices were dropping), and production will not ramp back up in any significant way as long as the specter of enormous feed cost swings exist.

Finally, we have to recognize that ethanol is beginning to divide rural America. Each side likes to portray this as a battle of family farmers on their side against corporate interests on the other side. The reality is that it is not just pitting large food companies against large ethanol companies, its pitting family farmers who raise corn against family farmers who raise livestock and poultry. I see it in my own community. I see it in my own operation. The corn farmer in me likes the prices I've been getting in recent years, but the livestock producer in me sees the real economic damage being caused by huge production cutbacks. We have to drop the "us-or-them" mentality and find common ground. The turkey and swine industry has been willing to seek compromise since the RFS first was being debated and the livestock community has put concrete proposals on the table.

A second major challenge is the marketing rule proposed last summer by USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA). Agency officials say the rule is designed to give family farmers a level playing field when negotiating production and marketing contracts. That may have been the intent but the rule as proposed creates long-term dangers for many of the family farmers who raise livestock under contract.

Many of you are familiar with this rule, so I will not address it on a point-by-point basis, but I will call your attention to three aspects of the rule that, taken together, create enormous potential problems for all segments of the industry.

The first is the competitive injury provision that will make it easier to sue or bring regulatory action against livestock and poultry processors. The second is the provision that requires processors to virtually guarantee growers they can recoup 80 percent of their capital investments. The third is a series of provisions that would discourage competitive contracts in which growers can receive premiums or deductions based on the performance of the livestock in their care.

Taken together these provisions create significant new legal and regulatory risk for the livestock and poultry processors. Within the turkey industry about 80 percent of all birds raised are via a production contract with family farmers. The first and most obvious outcome is that contracts will be less competitive and compensation will become more uniform among growers. For some growers this might be good news, but for those who were doing an outstanding job and receiving premiums will justifiably feel cheated as a new regulation forces everyone down to a lower common denominator.

The bigger impact will come in the long term, though. The rule creates greater economic and regulatory risk for the processors who raise livestock under production contracts. These processors will have to find ways to minimize that risk, and since 80 percent of all turkeys and a large majority of other livestock are raised under these contracts, how that risk is managed will have an enormous impact on the industry. One conceivable option for processors could include reducing over time the number of farms on which they raise livestock. It could prove safer to expand operations on those farms with the best track record, and that poses a threat for growers whose performance is far from poor but who may not meet the rigid criteria necessary for processors to operate in a higher-risk world. Another realistic option would be for more processors to raise livestock on company-owned farms. Right now such farms make up only 10 percent of turkey production and a larger proportion of swine production, but it is easy to envision a scenario in which the percentage is much higher a decade from now.

What is especially frustrating is that USDA promulgated this rule without conducting an adequate economic assessment of its impact. A study funded in part by the National Turkey Federation found an impact of over $360 million on the turkey industry alone. Other studies found the impact might be even higher. Another study released by the National Chicken Council concluded that the rule would cost the broiler industry more than $1 billion over the next five years. According to an analysis of the rule conducted by Informa Economics, it would cost the U.S. pork industry nearly $400 million annually.

Industry analysis of the regulation concluded that it likely will have a chilling effect on innovation and flexibility, leading to a race toward mediocrity. It will create legal uncertainty that will drive costs higher and cause an increase in vertical integration in the livestock sector, driving producers out of the business and possibly affecting supplies. Finally, a study conducted by John Dunham and Associates showed job losses to the meat and poultry industry at 104,000 and would reduce the national Gross Domestic Product by $14 billion.

USDA now has agreed to conduct an assessment, and that is a positive development. However, no one at the department has committed to submitting the study for public comment before finalizing the rule. This is an essential step if there is to be any level of confidence that the final rule truly has the interests of family farmers, as opposed to the interests of lawyers who might try to sue on their behalf, at heart.

An additional challenge that is continuing to impact the industry more and more each year is the removal of health products from livestock production. Along with good animal husbandry, the appropriate use of antibiotics is one of the reasons why the U.S. food supply is the safest and among the most affordable in the world. Without the proper use of antibiotics in production agriculture, the risk of disease in livestock is higher, which will raise the cost of production, waste production resources, and bring to market less healthy turkeys and swine. This in turn will have an impact on food costs at a time when many Americans cannot afford the additional expense. The responsible use of antibiotics helps advance public health, food safety, animal health and animal well-being. Banning properly managed antibiotic use in livestock will have a significant impact on the turkey and swine industry.

How Government Can Help

Though most people in the livestock industry prefer minimal government involvement, there are ways Congress and the Executive Branch have been helping and can continue to help ensure the continued economic viability of the industry.

A prime example would be in the work USDA's Natural Resources Conservation Service had done with regard to the Chesapeake Bay. Their research has demonstrated the significant flaws in the EPA's modeling for the Bay and could serve as the basis for a more balanced regulatory approach that truly enhances the Bay. Furthermore, continued funding of the Environmental Quality Incentives Program (EQIP) is imperative for our industry's ability to implement conservation practices. First, we are pleased that the 2008 Farm Bill kept 60% of the funds for animal agriculture and would hope those funds would be continued in the next farm bill. Second, flexibility to the existing EQIP program in the types of environmental stewardship projects that would be available would be a positive development, additionally making it easier for livestock and poultry farmers to access such funding is critical. Farms should not be restricted from accessing these resources based upon size, financial benchmarks, or animal units.

As American farmers work to meet a growing world population, national farm policy should shift from funding reserve type conservation programs like the Conservation Reserve Program (CRP) to investing in working lands conservation programs. While programs like the Conservation Stewardship Program (CSP) provide opportunities to recognize excellent environmental stewardship, national farm policy has an opportunity to collaborate with innovative state approaches as a means of increasing enrollment and minimizing federal program paperwork. In Michigan, agriculture has worked in partnership with state, federal, academic and conservation partners to create the Michigan Agriculture Environmental Assurance Program or MAEAP. MAEAP is an industry led voluntary third party environmental "certainty" program for working lands on farms. After over 11 years of program development using federal and state standards, the program was codified into Michigan law this year. Nearly 1000 farms are MAEAP verified as determined by the Michigan Department of Agriculture and over 10,000 farms are in the process. Re-verification of farm participants happens every three years to ensure continued compliance with environmental regulations. MAEAP was developed to assist farmers in taking a voluntary approach to reducing agriculture's environmental impact in the state of Michigan, while continuing to maintain sustainable business operations. Over the past 7 years, our family farms have been involved in the MAEAP program. With Michigan being one of the most agriculturally diverse states, a one size fits all approach to environmental protection simply does not work on all Michigan farms. The MAEAP program encompasses three systems designed to help livestock producers evaluate the environmental risks associated with their operation. Each system (livestock, farmstead, and cropping) examines a different aspect of a farm, as each has different environmental impacts. Through each phase, producers develop and implement economically feasible, effective and environmentally sound production practices. At Sietsema Farms, we have implemented many projects including crop field buffers and filter strips, grass waterways, conservation/minimum tillage and residue management, Shallow Water Wildlife projects, Native Pollinator plantings, irrigation water management, drainage management, runoff and sediment capture, nutrient and pest management, fertilizer containment, and fuel storage security and management.

Lastly, our partnership with the federal government on food safety is vital for consumer confidence in our food supply. While the industry and regulators don't always see eye-to-eye, the government's growing commitment to working cooperatively with processors on a science-based, risk-based inspection system has helped enhance the microbial profile of our food supply, reduced food borne illness and maintained consumer confidence in what continues to be the world's safest food supply.

As technology advances and new business models change operation sizes, production systems, geographic distribution, and marketing practices, we continue to look forward to a bright future in agriculture. The demand for meat protein is on the rise in much of the world. Global competitiveness is a function of production economics, environmental regulation, labor costs and productivity. The United States can continue to be a leader in food production and meet the needs of increased consumer demands as long as exports continue to grow and producers are allowed to operate without undue or unjustifiable legislative and regulatory burdens.

Thank you again for the opportunity to discuss the state of the turkey and swine industry. I will be happy to answer any questions you may have.

State of Livestock in America

Hearing of the Senate Committee on Agriculture Nutrition & Forestry

The Honorable Deborah A. Stabenow
Chairman

Michael Welch
President and Chief Executive Officer
Harrison Poultry
Bethlehem, Georgia

On behalf of National Chicken Council

June 28, 2011

Dirksen Senate Office Building
G50

Washington, DC

Good afternoon, Chairman Stabenow, Senator Roberts, and Members of the Committee. Thank you, Chairman Stabenow, for the opportunity to participate in this important and timely hearing on the issues impacting the state of livestock in America. On behalf of the National Chicken Council, I appreciate your invitation to provide comments and recommendations regarding a number of issues and challenges confronting the chicken industry. U.S. chicken producer/processors will certainly need the Committee's full support if the chicken industry is to successfully overcome the increasingly difficult issues and challenges I will outline in my statement. As a point of clarification, I will use the word "broiler" and "chicken" interchangeably in my statement. And, I am pleased the Committee is including "poultry" in the definition of "livestock" for the purposes of this hearing.

My name is Michael Welch and I am President and Chief Executive Officer of Harrison Poultry in Bethlehem, Georgia. I have been President of Harrison Poultry since 1992. Harrison Poultry is a small, privately held company operating one slaughter plant producing a variety of products that are carefully and specifically tailored to our end-customer requirements. More than 1,000 employees work hard everyday to make Harrison Poultry successful. Also, over 125 family farmers contract to grow broilers and an additional 40 family farmers contract to produce hatching eggs for the company-owned hatchery. Each week Harrison Poultry processes more than

6 million pounds of broilers on a liveweight basis. Some of Harrison Poultry growers have been growing broilers since Harrison Poultry became vertically-integrated more than 40 years ago, even though the company contract is considered a flock-to-flock arrangement. Harrison Poultry and other companies in the chicken industry provide good, steady income for family farmers across the United States where broilers are produced. The majority of our workers have been with us for many years and this stability in our workforce, I believe, is one of Harrison Poultry's greatest strengths.

Harrison Poultry is a proud member of the National Chicken Council; and I, as a former Chairman of the organization, am pleased to present this statement on behalf of the National Chicken Council. More than 95 percent of the young meat chicken (broilers) produced and processed in the United States come from the Council's members.

Chicken Production and Increasing Feed Costs

Over the past five decades broiler production has decreased on an annual basis only three times: two years in the mid-'70s and again in 2009. With the very steady track record of increasing production, the industry's growth has offered increased opportunities for growers to expand their operations and build their incomes and net worth. That strong track record of growth is in very serious jeopardy because an over abundance of corn is being diverted to fuel production and thus squeezing out corn that should be available for feed.

In 2010 almost 50 billion pounds, liveweight, of chickens were produced using more than 55 million tons of feed for broilers and the broiler breeder flocks that provide the fertile eggs for hatching. Of the 55 million tons of feed, over 36 million tons or about 1.3 billion bushels of corn or corn products were mixed into the finished feed. The average cost of chicken feed before the corn price began to rapidly escalate in mid-October, 2006 was $139.20 per ton. Last month (May, 2011) the same ton of feed cost over $300 per ton, more than doubling the cost since the second Renewable Fuels Standard became mandatory. The vast majority of the run-up in feed costs was the result of corn more than tripling in price since 2006. Last year the chicken industry's feed bill was almost $13.0 billion compared with total feed costs in 2006 of less than $7.0 billion. On a cumulative basis with the higher feed costs, the chicken industry has had to pay over $23 billion more for feed since October 2006. If the ballooning feed costs for turkey production and table egg production are added, the increased cumulative feed bill for poultry and eggs is now approaching $30 billion.

When Secretary of Agriculture Earl Butz spoke about broilers many years ago, he would fondly refer to broilers as "condensed corn." During the early '70s when Dr. Butz was Secretary, it took more than 2.25 pounds of feed to produce a pound of liveweight chicken. Today the feed conversion is better than 1.9 to 1.0, with many companies having conversion ratios of better than 1.8 to 1.0. Except for farm-raised catfish, no farm-raised animal is a better converter of feed to food than chicken. Nonetheless, even very efficient feed conversion cannot mitigate the high corn prices and the significant impact on the cost of producing chicken. Commodity futures prices reflect, at best, a pipeline quantity of corn available as carryover stocks at the end of this current crop year. With this precarious situation, it appears there will be further escalation in the corn price to allocate the tightening supply of corn. Therefore, the market fundamentals imply even higher feed costs for the rest of this year and beyond. Also, not only will corn prices most likely be higher, the volatility in corn prices will be much greater.

Broiler companies until recently have tried to weather the storm of very high, very volatile corn prices. But, now, companies can no longer withstand the storm. Companies are trimming their production plans which mean growers will receive fewer chicks to grow to market-ready broilers and processing plant work shifts are being reduced or even eliminated. With less work time, workers are being laid-off. A broiler company in Georgia just announced 300 workers will not longer be needed. A fourth-generation family broiler company in Delaware has filed for bankruptcy protection while it works to secure another owner for its assets. A broiler processing plant in Virginia that was unprofitable was sold to another broiler company in the hopes that it can be made profitable so the growers can continue to grow broilers and the workers can continue to work. The U.S. Department of Justice intervened in this change of ownership transaction even though the premerger notification law did not apply in this case. Justice last week said it has reached an agreement in this case. The company, according to Justice, will be required to make “important capital improvements” in its operation as the main part of the settlement. It is my understanding that such a requirement by Justice is consistent with the new owner’s previously announced plans for the plant.

I wish I could tell the Committee that the likelihood of more bankruptcies and changing of ownerships will diminish in the broiler industry. I cannot tell you that conclusion, because I believe just the opposite will happen. That is, a number of companies are trying to continue to operate on very thin financial ice. Banks and other lending institutions are telling these companies, “enough is enough,” meaning sell your assets and repay your outstanding debt. What some analysts say about the broiler industry of “ten companies in ten years” may become a reality.

Why the Future is Different than the Past

Certain analysts have suggested that “we have been here before.” That is, animal agriculture, including the broiler industry, has weathered high prices for feedgrains/oilseeds in years past and, for the most part, has survived. It is true that there have been high feed costs before now and, at certain times, the quick run-up in prices have come upon the market unexpectedly. In the past, the problem has been a one year or so supply problem. But now, however, the situation is not only supply-driven but also demand driven. U.S. animal agriculture has not been here before. For example, a number of econometric models both at universities and private analytical firms that analyze the animal agriculture sector and forecast how the sector interrelates with the feed complex have been reworked and have been significantly adjusted because the previous models simply could not handle the new dynamics of current and future scenarios. Government policy for corn-based ethanol that subsidizes, mandates, and protects it from competition has significantly changed how ethanol reacts to normal market forces and how it is put to the head of the line when competing for corn. This biofuel demand for corn is a new dynamic that changes essentially all relevant econometric models. Corn used for ethanol for the 2005/06-crop year was 1.6 billion bushels or 14 percent of total usage. For 2011/12 USDA is estimating over 5 billion bushels or more than 38 percent of this Fall's estimated corn harvest. If the corn crop this Fall drops below 13.0 billion bushels, as more and more analysts are expecting, ethanol's share could approach 40 percent of the harvest. The increase in the usage of corn for ethanol since 2005/06 has more than tripled.

The international demand for U.S. agricultural commodities must now more seriously and more fully take into account the China factor. Chinese government trade policy is often difficult to predict. Nonetheless, China's rapidly growing need for more agricultural imports seems somewhat evident. Many, if not most agricultural commodity analysts, believe China is poised to become a large net importer of corn on a consistent going-forward basis. If and when this development occurs, there will not be enough corn at reasonable prices to supply both domestic and foreign demand.

Increasing demand for corn is being placed on a limited supply. USDA is predicting ending corn stocks for 2011/12 at 695 million bushels which most analysts consider to be less than minimum pipeline requirements. There is no cushion, no extra bushels in inventory to carry the needs of the users of corn through the next crop year in the event of a shortfall in this fall's corn harvest. To assume that an adequate number of acres were planted to corn this year and will be planted at a sufficient levels during the next few years and to further assume favorable weather conditions for crops this year and the next few years are not assumptions the U.S. chicken industry is prepared to make, nor should prudent U.S. government policymakers be willing to make. Later this week USDA will report the number of acres of corn planted this Spring. I am not optimistic that USDA's number will be a sufficient number, but I am even more troubled by the acres of planted corn destroyed by flooding, drought, and other problems. Although USDA is estimating a below trend-line yield for corn this year, I question whether the deviation from the trend-line reflects the challenges occurring to the corn crop.

Contingency Plan for Shortfall of Corn Long Over-Due

Since October 2008 when corn prices escalated to record high levels, it has become more and more clear that the national policy regarding corn-based ethanol has been heavily tilted toward using corn for fuel rather than for food/feed. The need to re-balance the policy is long overdue. Picking one market for corn to be the winner at the expense of the loser should not be the function of government. Mandating the use of ethanol, subsidizing its cost, and protecting ethanol from competition is triple over-kill. Greater energy independence is a worthy goal for the United States, but the negative and unintended consequences of moving too far too fast with corn-based ethanol have become overly evident. For the chicken industry, like other animal agriculture producers, fewer pounds of product have been produced and will continue to not be produced in the foreseeable years. Consumers who have sufficient income to devote to cover the higher costs of food will reach deeper into their pocketbooks and pay the higher food prices. Consumers in this country and around the world who do not have an adequate income and, therefore, cannot continue to afford animal protein in their diets will have to shift to other foods, and in some cases, no food. With land being a limiting factor in the production of food, it is most likely all foods, not just corn, will be higher in price and tighter in supply, whether of animal origin or not.

Foremost is the need for a credible, equitable, and workable plan-of-action in the event of significant shortfall in the corn crop. I suggest the United States is now experiencing a significant shortfall in corn supplies. Planting conditions for corn, soybeans, and other competing crops have not been favorable this year. The growing season is still in its early stages with July's temperatures and rainfall being critical for the crop. Harvesting a record quantity of corn is needed, but it is a questionable prediction at this time. Animal agriculture is experiencing major disruptions while ethanol producers continue to outbid non-subsidized buyers of corn. The National Chicken Council recommends a plan be implemented that would assure the

Volumetric Ethanol Excise Tax Credit (VEETC) be sunseted at the end of 2011 and that the Renewable Fuels Standard be adjusted when the stocks-to-use ratio for corn drops to low levels, which is the situation we now face.

With the weakened U.S. dollar, U.S. commodities, including corn and other crops, are more affordable to foreign buyers. Therefore, U.S. animal agriculture is the most vulnerable corn buyer when the supply of corn suffers a shortfall. It is highly unlikely the current shortfall crisis will be a one-year problem. The essentially non-existent stocks of corn means more and more acres of corn will be required as will higher and higher corn yields for the next three years or more. In addition to a contingency plan that uses the ratio of corn-stocks-to-use as a trigger mechanism for the Renewable Fuels Standard, the National Chicken Council also recommends that USDA be required to implement a plan to permit non-environmentally sensitive acres to be released from the Conservation Reserve Program without penalty. More acres are needed, not just for corn, but also for soybeans, wheat, cotton, and other crops that compete with corn for acreage.

Ethanol Debacle

As I have noted, chicken companies are increasingly being severely impacted by the growing diversion of corn into government-subsidized ethanol programs. This year's farmgate corn price will likely be three times higher than the comparable price in 2005/06, the year prior to implementation of the second Renewable Fuels Standard mandate. Government policy requires that a fixed amount of corn-derived ethanol be used in motor fuel every year. Taxpayers subsidize the program by 45 cents per gallon through the Volumetric Ethanol Excise Tax Credit (VEETC) paid to fuel blenders. This credit will cost the Treasury over $5.67 billion in lost revenue this year. Ethanol manufacturers are also protected from foreign competition by an import tariff of 54 cents per gallon plus another two percent ad valorem duty. The tariff sharply limits the amount of ethanol imported from Brazil and Caribbean counties, where it is normally produced more economically from sugar. The ethanol industry has been subsidized for more than thirty years and has a large guaranteed market through the biofuel mandate set by the Energy Independence and Security Act (EISA) of 2007. Fuel blenders are required to use 12.6 billion gallons of corn-derived ethanol in motor fuel this year and 15 billion gallons by the year 2015. Yet, all this ethanol is doing little to improve U.S. energy security, which is what Congress intended to do with the 2007 Energy Act. Ethanol made from corn is the only product that receives government subsidies, has a mandate for usage, and is protected from foreign competition. Enough is enough.

Proposed GIPSA Rule

In the 2008 Farm Act Congress directed the U.S. Department of Agriculture/Grain Inspection, Packers and Stockyards Administration (GIPSA) to develop criteria in five areas of poultry and swine contracts. The five areas are:

- Undue or unreasonable contractual preferences/advantages to/for particular contracting parties
- Whether a live poultry dealer or swine contractor has provided reasonable notice to a poultry grower or hog farmer of any suspension of delivery of birds or hogs
- Reasonable requirements for additional capital investments over the life of a contract
- Provide reasonable period of time for a poultry/swine grower to remedy a breach of contract
- Reasonable terms for arbitration in poultry and swine contracts

When USDA published the proposed rule in the *Federal Register* on June 22, 2010, interested parties were given 60 days to comment on the rule. The very short comment period provided an insufficient time for a serious and thorough analysis of the rule. Further, there was no credible, adequate economic impact analysis accompanying the proposed rule. Most egregious, the proposed rule went far beyond what Congress had instructed USDA to consider. After significant debate, USDA extended the comment period an additional 90 days.

Six areas in the proposed rule where GIPSA went beyond what Congress instructed are as follows:

- Onerous recordkeeping requirements

- Redefines “competitive injury” requirements
- Redefines the term “fairness”
- Additional capital investment requirement for grower to recoup 80% of costs
- Modification in the payment system to growers
- Disclosure and online publication of contracts

The rule, as proposed, would cost the broiler industry over $1 billion during the first five years, and further, would change the way companies and growers do business that has been successfully conducted for more than five decades. The vertically-integrated industry structure with growout contracts with family farmers is a system that has been successful and has made the U.S. chicken industry the most efficient and economically-viable in the world. The rule would put the U.S. chicken industry at a global disadvantage, as other countries would not have to face these onerous requirements. The rule would create uncertainty and cause unnecessary and costly regulatory and legal burdens in the marketplace by making it much more difficult for companies and contract growers to get competitive financing. In addition, companies would not have the incentive to use capital to improve and expand operations; rather there would be more of a financial incentive to restructure their businesses to include their own growout operations. USDA needs to withdraw the proposed rule and start over with a proposed rule that reflects the Congressional mandate and simple, logical common sense. The National

Chicken Council also believes that a robust, thorough economic impact analysis by USDA will conclude the cost impact is well over $100 million, the threshold that triggers such a study and, further, will find the cost of implementing the proposed rule far out weighs the benefits, if any.

Time for Free Trade Agreements

President Obama in his 2010 State of the Union speech called for a doubling of U.S. exports within five years. An important part of his effort is for have Congress approve three pending trade agreements: Colombia (signed in November 2006), Korea (signed in June 2007), and Panama (signed in June 2007). The White House's primary argument for passage of the free trade agreements (FTA) is that several hundred thousand jobs would be created and the U.S. economy will be stimulated.

Under the Andean Trade Preference Act, Colombia faces no tariff barriers on its agricultural exports to the United States. Approval of the agreement would not change that situation but it would add almost $1 billion of new U.S. agricultural exports to Colombia on an annual basis. In 2010 U.S. poultry exports to Colombia were $21.3 million compared with a five year (2005-2009) average of $13.2 million. When the agreement is fully implemented, poultry exports are expected to increase four-fold from the five-year average to reach about $55 million.

For Korea almost $2 billion additional U.S. agricultural exports will flow annually under the agreement. In 2010, U.S. poultry exports to Korea were $91.9 million compared with the five average (2005-2009) being $51.0 million. Under the agreement, U.S. poultry exports are forecast to triple compared with the five year average to reach over $150 million.

U.S. agricultural exports to Panama are expected on an annual basis to increase $200 million or more upon full implementation of the agreement. Panamanian agricultural exports to the United States enter with zero import tariffs under U.S. preference programs. U.S. poultry exports to Panama in 2010 were $14.4 million compared with the five year (2005-2009) average of $9.6 million. U.S. poultry exports are forecast to more than double the five year average and reach about $20 million sometime well before full implementation of the agreement.

Taken together these three markets could add over $150 million to U.S. poultry exports, more than double the combined five year average. That is, U.S. poultry exports are forecast to exceed $225 million compared with $74 million for the five year average for the combined total of these three countries.

With the United States two largest poultry export markets, Russia and China, severely disrupted and curtailed from previous trade levels, it is more important than ever to expand poultry sales to other world markets. Further, Congressional approval of these FTAs will encourage the U.S. Trade Representative to seek out and secure new trade agreements with several interested countries. Passage of these trade agreements would cost taxpayers essentially nothing but would create several hundred thousand jobs in the United States while providing for a more robust general economy. While there are reports of Congress working of technical language for passage of these agreements, the National Chicken Council is not aware of implementing legislation which is necessary for a Congressional vote. The National Chicken Council believes certain interests continue to pursue a strategy that prevents Congress from being given the opportunity to vote on the FTAs. If NCC's belief is correct, it is highly unfortunate that jobs that would be created from stimulated trade are not available to the nine percent of Americans who are unemployed. It is difficult to think of a time, such as now, when more jobs and an improved economy are more truly needed.

Risk Management for Poultry Farming

In addition to the challenges being caused by the high cost of feed, a number of companies and growers, especially in Alabama and Mississippi were challenged this Spring by severe tornadoes. Birds were lost, poultry houses destroyed/damaged, and power sources to operate plants and facilities were interrupted. Weather events, such as tornadoes, hurricanes, flooding, and similar, while not common in terms of striking the poultry industry, nevertheless, can, and do, result in severe disruption to operations and cause the financial strain. Most processors have sufficient insurance coverage to address damages and business interpretations. However, growers tend to have more limited coverage. So, unfortunately when disaster does happen, growers can face a very difficult time re-grouping and getting their growout and breeder operations back to normal.

USDA has studied risk management programs that could possibly help address disruptions to poultry growers and other segments of animal agriculture. However, the National Chicken Council is not aware that these studies have moved beyond that stage. It may be time for USDA to conduct at least a few pilot projects to determine the best way to assist growers in managing risks caused by weather, disease, and other potential disruptions to operations.

Conclusion

While there are many issues impacting the state of the chicken industry, I have limited my statement to what the National Chicken Council considers to be top priorities. To summarize those priorities, I note the following:

- The rules of the game must be balanced and the playing field should be leveled to permit chicken producers and other animal agriculture producers to more fairly compete for the limited supplies of corn this year and in the next few years. Included in this effort must be a safety-valve to adjust the Renewable Fuels Standard when there is a shortfall in corn supplies. In addition, a plan should be implemented to allow a reasonable number of good, productive cropland to opt out of the Conservation Reserve Program. This provision must be acted upon as soon as possible.

- With respect to the USDA/Grain Inspection Packers and Stockyards Administration's proposed rule addressing competition and contracting in the poultry and livestock industries, USDA should withdraw its proposed rule and Congress should insist that GIPSA adhere to the legislative mandate regarding the type, scope, and intent of any rule that is implemented. Affected parties are anxious to see and review USDA's economic impact study on this issue.

- Regarding the pending three free trade agreements, the National Chicken Council suggests, as have other groups, that these agreements be called U.S. job-creation agreements. Increased poultry exports as the result of implementing these agreements would definitely result in more jobs in the poultry industry and more family farmers growing poultry.

- USDA should renew its effort to study and implement measures and programs that would assist poultry farmers to more affordably manage their poultry production risks.

The National Chicken Council, its members, and the many allied industry companies that support poultry production, processing and marketing look forward to working more closely with the Committee and others in Congress so that poultry producers have a better opportunity to successfully manage the increasingly difficult challenges and issues. Improving the state of the poultry industry not only helps poultry companies and poultry farmers but, perhaps, more importantly will allow consumers of poultry products to continue to enjoy an ongoing, adequate supply of animal protein at reasonable prices.

Thank you, Chairman Stabenow, Senator Roberts, and Members of the Committee, for the opportunity to share the thoughts, comments, and recommendations of the National Chicken Council. NCC looks forward to working with you to successfully overcome the challenges confronting the poultry producers and processors. I request that my statement be entered into the record of the hearing and I look forward to your questions and comments.

STATEMENT OF THE U.S. DEPARTMENT OF AGRICULTURE BEFORE THE U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY

JUNE 28, 2011

Chairwoman Stabenow, Ranking Member Roberts, and members of the Committee, thank you for the invitation to discuss current issues and developments in the livestock industry.

Economic Forecast

As we enter the second half of 2011, livestock prices are generally higher supported by strong U.S. agricultural exports and very modest increases in production. However, livestock margins remain under pressure as weather events and strong demand have pushed prices for feed and other inputs to record levels. Economic growth, especially in less developed countries, and the reduced value of the dollar continue to support global demand and U.S. prices for livestock and dairy products.

U.S. agricultural exports setting records. USDA's forecast for U.S. agricultural exports for FY 2011 is a record high $137 billion, up from $108.7 billion in FY 2010 and the previous record of $114.9 billion in FY 2008. U.S. exports of livestock, poultry and dairy products are forecast to reach a record $26.5 billion in FY 2011, up $5 billion from the previous year.

U.S. **beef** exports for 2011 are forecast at 2.59 billion pounds, 13-percent growth above 2010. Much of this year's export growth stems from U.S. beef export markets in Asia. First-quarter exports to South Korea and Japan were 194 and 63 percent higher than in 2010, respectively, and exports to Hong Kong were 64 percent higher.

U.S. beef exports for 2012 are forecast at 2.52 billion pounds, only fractionally lower than the current year's forecast. Although total U.S. beef supplies will be about 4 percent lower in 2012, strong international demand for beef is expected to help maintain U.S. beef exports at near 2011 levels.

First-quarter beef imports were 19 percent below year earlier levels. For all of 2011, beef imports are forecast at 2.18 billion pounds, down 5 percent from 2010. In 2012, beef imports are forecast to increase to 2.48 billion pounds.

Through March, imports of Mexican cattle were 35 percent higher year-over-year, but imports of Canadian cattle were just over 35 percent below year-earlier levels for the quarter. The spread between U.S. and Mexican feeder cattle prices has continued to widen, a trend beginning in January 2010, but noticeably increasing since the fall of 2010. In addition, almost the entire region of Northern Mexico is experiencing extreme to severe drought causing Mexican cattle to be placed directly into U.S. feedlots.

U.S. **pork** exports are forecast to increase to 4.9 billion pounds in 2011, an increase of 15 percent from the previous year. U.S. exports to South Korea, up 195 percent during the first quarter, are expected to abate later this year as domestic production begins to rebound from recent Foot and Mouth Disease outbreaks. U.S. pork exports in 2012 are expected to decline slightly to 4.8 billion pounds as exports to South Korea decline as pork production recovers in that country.

The United States imported 1.452 million head of swine in the first quarter of this year, about the same as last year. For all of 2011, U.S. swine imports are forecast at 5.85 million head, up from 5.78 million head in 2010. Swine imports from Canada are expected to register another slight increase in 2012. The modest increase reflects indications that the Canadian swine sector's deep contraction might be bottoming out.

For all of 2011, **broiler** exports are forecast to decline from 6.77 billion pounds in 2010 to 6.48 billion pounds due primarily to lower exports to Russia and China. Broiler exports in 2012 are expected to total 6.7 billion pounds, up 3.4 percent from the 2011 forecast. Broiler exports are expected to benefit from strong prices for beef and pork products as consumers look for the lowest priced sources of protein.

Major crops: global supplies tight. For the 2011/12 marketing year, global demand is forecast to exceed global production causing global stocks of grains and oilseeds as a percent of use to fall and crop prices to rise.

Corn plantings affected by weather. Planting delays through early June in the eastern Corn Belt and northern Plains due to excessive moisture and flooding are expected to reduce corn planted area for 2011 by 1.5 million acres from March intentions to 90.7 million acres. Despite the decline, corn planted area is currently projected to be the highest since 2007 and the second highest since 1944.

In June, USDA lowered corn harvested area for 2011 by 1.9 million acres to 83.2 million, reflecting early information about May flooding in the lower Ohio and Mississippi River valleys and June flooding along the Missouri River valley. Corn production for 2011 is projected at 13.2 billion bushels, a record and up 753 million bushels from 2010.

Despite the increase in corn production, total corn supplies for 2011/12 are down 230 million bushels from 2010/11 as lower beginning stocks more than offset the projected increase in corn production. Feed and residual use is forecast to fall by 150 million bushels from 2010/11, reflecting lower red meat and poultry production, increased wheat feeding and a slight increase in production of ethanol feed byproducts. Food, seed and industrial use is forecast to increase by 55 million bushels, with nearly all of the increase attributable to higher corn use for ethanol production. Exports are forecast to decline by 100 million bushels in 2011/12, as higher international prices provide an incentive to increase production abroad and substitute wheat and other feed ingredients for corn in livestock rations. Corn ending stocks are projected at 695 million bushels, or 35 million bushels lower than beginning stocks. The 2011/12 season-average farm price for corn is projected at a record $6.00 to $7.00 per bushel, up from last year's record of $5.20-$5.50.

Ethanol growth expected to slow. In 2010/11, 5.0 billion bushels of corn are expected to be used to produce ethanol. USDA projects 5.05 billion bushels of corn will be converted into ethanol in 2011/12, accounting for 38 percent of total use and 38 percent of corn production. Each bushel of ethanol produced from corn yields byproducts, such as distiller dried grains, which substitute for corn and other feed ingredients in livestock rations.

The Energy Independence and Security Act of 2007 (EISA) calls for a Renewable Fuel Standard (RFS2), which mandates that the United States increase the volume of biofuel that is blended into transportation fuel from 12.95 billion gallons in 2010 to 36 billion gallons by 2022. Under RFS2, the volume of corn-based ethanol required to be blended in transportation fuel is capped at 15 billion gallons by 2015. Ethanol production exceeded 13 billion gallons in 2010 and could reach nearly 14 billion gallons in 2011. Therefore, RFS2 is expected to lead to only modest increases in ethanol production over the next several years.

Soybean production projected to decline slightly in 2011/12. In the March Prospective Plantings report, growers indicated that they intend to plant 76.6 million acres of soybeans in 2011, down 1 percent from last year. Although adverse weather has slowed planting progress, USDA has not reduced soybean planted area awaiting release of the Acreage report on June 30th.

Soybean production is currently projected at 3.285 billion bushels for 2011/12, down 1.3 percent from last year. U.S. soybean supplies are projected at 3.48 billion bushels, down slightly from last year as higher beginning stocks about offset the decline in production. Soybean exports are projected to decline about 1 percent from last year's record, reflecting increased competition from South America. Carryover stocks are forecast at 190 million bushels, up 10 million bushels from last year's estimate. The farm price of soybeans is forecast to average a record $13-$15 per bushel for the 2011/12 marketing year, compared with last year's record high of $11.40. The price of soybean meal for 2011/12 is projected at $375 to $405 per ton, up from $350 in 2010/11 and $311 in 2009/10.

Wheat feeding higher, price up in 2011/12. At 57.7 million acres, wheat acreage is expected to rebound in 2011/12 from last year's 53.6 million acres, the lowest since 1970. Flooding and persistent wet soils have delayed planting of spring wheat in North Dakota and Montana well beyond the normal planting window.

U.S. wheat production for 2011/12 is forecast at 2.058 billion bushels, down 150 million bushels from year last year as slightly higher harvested acreage is more than offset by a lower national average yield per acre. In 2010/11, favorable weather pushed the average yield per harvested acre to a new record high of 46.4 bushels per acre. Drought in the Southern Plains is forecast to reduce this year's average yield to 43.1 bushels per acre.

Total wheat supplies for 2011/12 are estimated at 3.0 billion bushels, down from nearly 3.3 billion bushels in 2010/11. Feed and residual use is forecast to increase 50 million bushels from last year, as higher corn prices and a rebound in soft red wheat production encourage more summer quarter wheat feeding. U.S. wheat exports are projected to fall by 245 million bushels from 2010/11. Export prospects are sharply diminished with reduced hard red wheat production and increasing competition as Black Sea production and exports rebound following last year's weather-reduced harvest. U.S. ending stocks are projected to decline 15 percent to 0.7 billion bushels.

The farm price of wheat is forecast to average a record $7.00-$8.40 per bushel in 2011/12, compared with $5.70 per bushel for the 2010/11 crop and the previous record high of $6.78 in 2008/09.

Livestock & livestock products: U.S. production and prices stable. Total U.S. production of meat and poultry is forecast to register a slight decline in calendar year 2012, with slight growth forecast in supplies of pork and poultry offset by reduced supplies of beef. Slightly lower production, increased exports and some recovery in domestic demand should help maintain livestock prices near historic highs.

For livestock and dairy producers, increasing feed costs will continue to be an important component of producer production decisions in the upcoming year. While livestock and milk prices are expected to remain strong, higher feed costs could lead to below average margins for livestock and dairy producers during the second half of 2011 and in 2012.

Cattle prices forecast record high. The inventory of cattle and calves as of January 1, 2011, totaled 92.6 million head. This is the lowest January 1 inventory of cattle and calves since 1958. Large cattle placements and large cow slaughter due in part to drought in the Southern Plains is expected to maintain beef production in 2011 near last year's level, despite the decline in cattle inventories.

Beef production is forecast to decrease by 4.8 percent in 2012. The decline in cattle inventory is expected to diminish the pool of cattle available for placement in feedlots during 2012 which in turn will reduce the number of fed cattle available for slaughter and beef production. In addition, higher feed prices are expected to slow feedlot placements as producers keep cattle on forage longer.

During the first 5 months of 2011, fed cattle margins averaged lower than year ago levels but remained positive, despite much higher feed costs. Some weakening in steer prices and higher feed costs could push margins lower during the remainder of 2011 but higher beef prices could lead to some improvement in returns in 2012. Steer prices are expected to average a record $111-$120 per cwt. in 2012, compared with $110-$114 in 2011 and $95 in 2010.

Pork production to increase slightly. Pork production in 2011 is estimated to increase by 0.8 percent after falling by 2.4 percent in 2010. While hog prices were up 34 percent in 2010 and are expected to average higher in 2011, increases in feed costs are expected to temper expansion over the next several months. The *Quarterly Hogs and Pigs* report released by USDA on March 25, 2010, indicates that producers intend to farrow 3 percent fewer sows during March-May and June-August than during the same period in 2010.

While smaller breeding animal inventories and lower farrowing intentions often translate into lower pig crops, continued gains in sow productivity are expected to largely offset lower farrowing numbers in 2011. Moreover, enhanced nutrition management practices are expected to continue to move average dressed weights slightly higher, despite increasing feed costs. Pork production is forecast to increase by 1.3 percent in 2012. Hog prices are forecast to average $61-$66 per cwt. in 2012, compared with $62-$65 in 2011 and $55 in 2010.

In 2010, hog prices posted a strong increase while feed costs moderated leading to improved returns for hog producers. During the first five months of 2011, feed costs have generally increased faster than hog prices reducing the margins of hog producers. For the remainder of 2011 and into 2012, continued high feed costs and limited increases in hog prices could continue to pressure the returns of hog producers.

Broiler meat production to increase. Broiler meat production for first-quarter 2011 was reported at 9.3 billion pounds, up 6.4 percent from the same period in 2010. For the remainder of 2011, broiler meat production is forecast to average slightly below last year's level, as increasing feed costs constrain expansion.

U.S. broiler meat production is expected to total 38.0 billion pounds in 2012, up 1.7 percent from 2011, with the expansion concentrated mostly in the second half of the year. Gains in broiler meat production are expected to come from a combination of more birds slaughtered and continuing increases in average bird weights at slaughter.

During the first five months of 2011, the returns of broiler producers are down sharply as feed costs moved higher and broiler prices fell below year ago levels. Over the next several months, modest gains in broiler prices combined with continued high feed costs are expected to lead to little improvement in the returns of broiler producers. Broiler prices are expected to average 82-88 cents per pound in 2012, compared with 82-85 in 2011 and 83 in 2010.

Retail food prices. In 2010, the Consumer Price Index (CPI) for all food increased by 0.8 percent, the lowest annual food inflation rate since 1962. Higher commodity and energy prices are expected to lead to a much stronger increase in retail food prices in 2011. For 2011, the CPI for food is currently forecast to increase by 3 to 4 percent, with the CPI for food at home increasing by 3.5 to 4.5 percent and the CPI for food away from home increasing by 3 to 4 percent. Higher levels of price inflation are expected across all major food categories in 2011, with most of the largest year-over-year increases in price inflation projected for livestock and dairy products. In 2011, the retail prices for beef, pork and dairy products are all expected to increase by 5 percent or more. In contrast, the CPI for dairy products went up by just 1 percent and the CPI for beef increased by 3 percent in 2010. The CPI for pork increased by slightly less than 5 percent in 2010 and is forecast to increase by 6.5 to 7.5 percent in 2011.

Issues and Opportunities for Livestock Producers

USDA works with the livestock industry in many different ways.

Conservation

Conservation programs and systems play an important role for the Nation's livestock producers as they work to achieve their production and environmental objectives. While conservation is often looked upon only for environmental benefits, it is clear that there are also economic benefits – for example, resulting from forage improvements, clean water, pest or disease control, and greater resilience to weather disturbances. Investment in new conservation tools and technologies are increasing the options for producers in choosing a workable path to meet environmental and production objectives. New information on the condition of our grazing land resources and the effects of current conservation practices will be advancing improvements in the suite of tools and practices for operators and conservationists.

The conservation portfolio provides a suite of tools to help the Nation's livestock producers achieve their production and environmental objectives in a balanced and sustainable fashion. Technical and financial assistance are available to help producers undertake any number of measures to manage environmental concerns, minimize risk, deliver improved environmental benefits, and ensure that their lands remain a valued component of the agricultural landscape. In addition to conservation technical assistance, which provides direct planning and implementation assistance to growers and operators, USDA delivers a number of important Farm Bill programs, including:

The Environmental Quality Incentives Program (EQIP) is the lynchpin of USDA's support for animal agriculture. In FY 2010, nearly $509 million was obligated in 19,744 contracts with livestock producers to undertake conservation measures. EQIP provides financial and technical assistance on working lands to help producers address environmental challenges. Sixty percent of EQIP funds are required by statute to be directed to livestock related natural resource concerns.

A significant element of the program is assisting operators to implement needed nutrient management measures. If an EQIP contract includes an animal waste storage or treatment facility, the participant must develop and implement a comprehensive nutrient management plan (CNMP). EQIP also supports many statutory and landscape-based initiatives that are also critical to animal agriculture, such as: the Agricultural Water Enhancement Program, the Conservation Innovation Grants, the Cooperative Conservation Partnership Initiative, the Chesapeake Bay Watershed Initiative, the Great Lakes Restoration Initiative, and the Sage-Grouse Initiative.

EQIP authority and flexibility makes it possible to address a wide range of issues facing animal agriculture. For example, the Natural Resources Conservation Service (NRCS) in Michigan recently began to use EQIP to help prevent the spread of bovine tuberculosis. It is believed that bovine tuberculosis is spread to livestock by deer through direct contact or from contaminated food or water shared with livestock. Producers are using EQIP assistance to establish conservation practices such as fencing, access control, improved drinking water facilities and other resource improvements that help manage deer in areas used by livestock. In cooperation with the Michigan Department of Agriculture, NRCS is helping operators voluntarily address this serious disease issue while implementing best management practices which also help sustain natural resources.

Other important programs available to help agricultural and forestry producers create and maintain conservation activities include the Conservation Reserve Program, the Conservation Stewardship Program, the Grasslands Reserve Program, the Farm and Ranch Lands Protection Program, and the Wetlands Reserve Program. These land protection efforts help producers preserve habitat and restore, protect, and enhance their lands while sustaining viable, productive agricultural operations.

Innovation of conservation technology is also a critical component of NRCS activities supporting animal agriculture. Through our work in conservation innovation, USDA is promoting development of new conservation technologies and approaches that will provide additional opportunities for livestock and poultry growers to balance environmental and production objectives.

Animal Health and Traceability

One of USDA's most important missions is its efforts to safeguard animal health. Foreign animal diseases can have a devastating impact on livestock and the livelihood of producers, and while prevention is our priority, we must be ready when an outbreak occurs. Animal disease traceability will serve as the cornerstone of USDA's efforts in controlling diseases that may threaten our country.

A traceability system is the primary tool we would use when disease strikes. Under a traceability system, USDA could trace an infected animal back to where it may have been exposed to the disease, as well as find any animals with which may have come into contact. It would allow us to find disease, quickly address it, and minimize the harm to producers.

We learned a lot from our initial efforts from several years ago in developing an effective system. We held a series of listening sessions around the country to solicit feedback on the prior system. We reflected on what we heard, and used that to form a broad outline of what a system could look like.

A little over a year ago, USDA presented that framework, a new approach for animal disease traceability. The Secretary proposed a comprehensive, flexible approach that builds on the strengths and resources of the previous system, addressing gaps, and improving this nation's ability to track and identify animals exposed or potentially exposed to disease.

USDA has worked hard to ensure that this is a collaborative and transparent approach, and our outreach to those affected by the proposal did not end there. We held more public meetings around the country to discuss the proposal, and solicit ideas on the approach. We reconvened the Secretary's Advisory Committee on Animal Health to help generate ideas and suggestions. We have heard from thousands of stakeholders, including States, Tribal Nations, and both large and small producers over the course of the last year.

The bottom line is that we know that we need an approach that is flexible enough to account for hundreds of different situations in thousands of locations. What may work best in Montana may not work in Wisconsin. The chief criticism we heard of the previous approach was that it was controlled from the top-down and inflexible. This new approach fixes that, letting each State or Tribal Nation decide what meets its particular needs. We are vested in having a system that works, which means a system that producers and our partners buy into.

The approach we now have focuses on results, not on prescribed methods. So there can be many different routes to the common goal of improving this nation's ability to trace animal diseases. Some states may choose to use higher levels of technology within their state, but they are also free to use the low-cost, low burden "brite" ear tag, which APHIS would provide at no cost to producers. With a focus on results, States and Tribal Nations have the flexibility to pursue options that work best for them.

While we have focused on fixing the previous system's weaknesses, it does not mean that we are entirely throwing out that system. The new proposal that we are developing builds on the successes of the previous approach, using what worked.

With a strong animal disease traceability system in place, USDA will be better able to respond to any outbreaks of foreign animal disease. It will give confidence to markets that we can trace and confront disease outbreaks, thereby improving the overall health of U.S. agriculture.

Brucellosis and Bovine Tuberculosis

Today's agricultural producers constantly face new challenges that USDA strives everyday to address--from new foreign animal diseases and pests, to changes in technology, to disagreements in the trade arena. And like those producers, we regularly look at how we can evolve to meet today's challenges while also looking ahead to tomorrow.

One area in which we have tried to find a new way of operating is with our bovine brucellosis and bovine tuberculosis (TB) programs. These programs have been very successful. In collaboration with State animal health partners, producers, and other stakeholders, we have made great strides in reducing the incidence of both diseases in U.S. livestock. But, we also see that in today's animal health landscape, new approaches are in order--and as a result, we have reached out to stakeholders to help update these programs.

To kick off these efforts, APHIS, in October 2009, published two concept papers proposing new directions for our brucellosis and bovine TB programs. We followed this with a series of meetings with industry and state officials, because we believed that stakeholder input and transparency should play important roles in the process.

With respect to our national brucellosis program, in December 2010, we published an interim rule with a goal to transition the national brucellosis program from one based on geopolitical boundaries to one based on boundaries determined through sound science, epidemiology, and risk assessment. Our goal is to direct our focus and our resources to high-risk areas. Currently, that means the Greater Yellowstone Area (GYA), where the disease is endemic in wild bison and elk, presenting a significant threat to livestock in the area.

We are also updating the bovine TB program. We are making changes based in part on what we have learned about the pathways for the introduction and spread of bovine TB in today's agricultural landscape. In April 2010, we took a first major step toward updating the bovine TB program with the publication of a Federal Order which removes certain movement restrictions and testing requirements in States that have TB-affected herds. There is no longer a good reason to place certain movement restrictions on animals unaffected by the disease, just because TB has been found elsewhere in a state. The Federal Order allows producers who do not have affected animals to move animals interstate, minimizing negative impacts until the current TB program regulations are amended. The Order also ends the automatic downgrade of an accredited free state or zone to a modified accredited advanced state or zone when TB-affected herds are found, as long as the state meets certain criteria for preventing the spread of the disease.

Because we are planning changes to both the national brucellosis and bovine TB programs, we assembled a joint working group of our Federal, State, and Tribal partners to discuss the overarching regulatory concepts for both programs, and we are considering a combined rule for both programs. Ultimately, we plan on proposing regulations that will update both our brucellosis and bovine TB programs to reflect the current world we live in and the challenges that USDA and producers face.

USDA Animal Health and Animal Production Research

USDA's Research, Education, and Economics (REE) mission area conducts and funds research to detect, prevent, and control domestic and foreign animal diseases and improve the efficiency of animal production. The Agricultural Research Service (ARS) conducted critical research in 2009 on the pandemic H1N1 influenza virus which showed how pork could be safely eaten. This timely research minimized the financial losses incurred by the U.S. pork industry. ARS also supports regulatory agencies like APHIS with Brucellosis and Bovine Tuberculosis research. The National Institute for Food and Agriculture has provided funding to scientists from multiple universities to develop vaccines and diagnostic tests to control Avian Influenza and Porcine Reproductive and Respiratory Syndrome Disease and provides funding in support of the National Animal Health Laboratory Network (NAHLN). The NAHLN is jointly led by the APHIS National Veterinary Services Laboratory and the National Institute of Food and Agriculture. Supported through the Food and Agriculture Defense Initiative, it includes a network of state and university diagnostic laboratories to rapidly detect animal diseases in the United States.

Additionally, REE conducts food safety research in support of the Food Safety Inspection Service to detect and reduce the prevalence of food safety pathogens. USDA and collaborating universities have developed a process to dramatically improve genetic selection in dairy cattle with the use of genetic marker information, saving the dairy industry considerable cost in identifying the genetically superior animals. ARS and university scientists have worked with the dairy industry to measure greenhouse gas production from the entire production system and are identifying opportunities for reducing greenhouse gas production.

Grain Inspection, Packers and Stockyards Administration (GIPSA)

The economic viability and quality of life in rural America also requires a fair and competitive agricultural system. The Department and this Administration have made it a priority to examine and take steps to create and maintain a fair and transparent marketplace in agriculture and especially the livestock and poultry sectors. GIPSA published a final rule to establish basic fairness for poultry contracts, and in particular, to ensure that producers no longer have their contracts arbitrarily cancelled without notice. In addition, the President's FY 2012 budget includes a request for an increase in appropriations for GIPSA to improve enforcement of the Packers and Stockyards Act.

Both USDA under the Packers and Stockyards Act of 1921 and the Department of Justice (DOJ) under the antitrust laws have authorities to ensure producers are treated properly. An important part of our efforts has been to work together and eliminate any stove-piping where it existed between the agencies. USDA and DOJ in 2010 held five joint workshops to listen and learn from farmers, ranchers, cooperatives, processors, retailers and others to better understand the state of competition in agriculture. These workshops have solidified our working relationship with DOJ and furthered our understanding of what producers and others are concerned about.

In June 2010, GIPSA published a proposed rule that has become commonly known as "the GIPSA rule." The purpose of the rule was to improve fairness and transparency in the livestock marketplace based on provisions contained in the 2008 Farm Bill and areas the agency identified for further consideration. The rule has sparked considerable interest and discussion and GIPSA received 61,000 comments that are being analyzed to complete the rulemaking process. At this stage, GIPSA has consolidated and summarized all of the comments and is working on modifying the rule based on them. An economic team headed by USDA Chief Economist Joe Glauber is studying the rule and preparing the necessary cost benefit analysis. His analysis will reflect the comments and especially the cost-related comments that were received by the agency. We have no preset timeline for completing this rulemaking. Our focus is on getting the rule done right and making sure that outstanding issues or concerns are addressed properly.

GIPSA has also worked to improve its enforcement processes under the Packers and Stockyards Act and take action when appropriate. In negotiating settlements, one of GIPSA's priorities is to seek restitution for the producers or other parties that are harmed. For example, two recent settlements included civil penalties of over $125,000 for violations of the Packers and Stockyards Act and payment to producers who were underpaid. The underpaid hog farmers have already received over $1,000,000 in restitution and more is expected as additional transactions are reviewed.

Food Safety

The Food Safety and Inspection Service (FSIS) is the public health regulatory agency responsible for ensuring that our Nation's domestic and imported commercial supply of meat, poultry, and processed egg products is safe, secure, wholesome, and accurately labeled and packaged. FSIS is charged with enforcing the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, and the regulations promulgated under these laws. In addition, FSIS also enforces the Humane Methods of Slaughter Act, which requires that all livestock be handled and slaughtered in a humane manner.

USDA inspection is one of the Department's most powerful tools in protecting public health. Consumers rely on the Federal mark of inspection as an indication that the product is safe to eat, and the industries we regulate understand this consumer confidence is vital to the market viability of their products.

FSIS' mission is to protect public health through science-based policies. We partner with industry and consumers as we look to implement policies, explore important research, and develop scientifically-proven strategies to manage the risks posed by foodborne pathogens.

USDA is building upon our existing efforts in three important ways: focusing on preventing and minimizing foodborne illness outbreaks, developing the right tools to protect public health, and focusing on people.

Prevention is our guiding principle. This principle requires a proactive approach and we at USDA collaboratively work every day to protect Americans from foodborne hazards – pathogens like *E. coli* O157:H7, *Salmonella*, *Campylobacter*, and *Listeria monocytogenes*. Our systematic and coordinated strategy to prevent foodborne illnesses includes rigorous inspection, enforcement, product testing, risk analysis, and vulnerability assessments.

Making improvements and enhancements to our existing tools is critical to protect public health. The most important tool we have is the Pathogen Reduction; Hazard Analysis/Critical Control Point regulation, or HACCP. It has been the foundation of USDA inspection since 1996, and is a sound, solid principle and approach to protecting the food supply. Under HACCP, establishments implement their own food safety programs and USDA verifies that these programs are effective. Even after 15 years of HACCP, we strive to ensure every day that this and all of our tools – our regulations and programs – are working to provide the best public health protections. USDA's job is not to make regulations more burdensome; it is to make them clear and work the way they were designed: to ensure that producers make the safest food possible.

Finally, we are dedicated to our mission because we protect people. The Centers for Disease Control and Prevention (CDC) estimates that 48 million people get sick, 128,000 are hospitalized, and 3,000 die each year from foodborne diseases. This is far too many, and we must continue to enhance and strengthen our prevention methods to drive these numbers down. While we have had some successes, we still have a lot of work to do to protect people from preventable, foodborne illness.

The Farm Safety Net and Risk Management Tools

The Risk Management Agency currently offers two types of insurance for livestock producers under Section 508(h) of the Federal Crop Insurance Act, as authorized by Agricultural Risk Protection Act: Livestock Risk Protection (LRP) and Livestock Gross Margin (LGM). Funding for the LRP and LGM is capped at $20 million for all administrative expenses, including premium subsidies and delivery expenses paid to approved insurance providers. In 2011, sales of livestock policies were halted when the statutory cap was reached. This is the first time the funding cap has resulted in a limitation on sales of any livestock insurance product. LRP provides protection against unexpected declines in the price of certain livestock – feeder cattle, fed cattle, lamb, and swine. In 2011, there were 1,522 policies earning premium valued at $256 million for the 196,957 head of cattle, 278,090 head of lamb, and the 56,823 head of swine insured under the LRP plan.

LGM provides protection to livestock producers against unexpected increases in feed costs or unexpected declines in prices for the insured livestock product. Gross margin is the market value of the insured livestock product minus feed costs. In 2011, there were 1,285 policies earning premium valued at almost $792 million for the 1,480 head of cattle, 46.2 million hundredweight of milk, and 126,410 head of swine insured under the LGM plan.

USDA also provides assistance in times of disaster. The 2008 Farm Bill created several new disaster programs that provide assistance through USDA's Farm Service Agency to producers. The Livestock Forage Disaster Program (LFP) provides financial assistance to producers who suffered grazing losses due to drought or fire, while the Livestock Indemnity Program (LIP) provides benefits to livestock producers for livestock deaths in excess of normal mortality caused by adverse weather. The Emergency Assistance for Livestock, Honeybees and Farm Raised Fish Program (ELAP) provides emergency relief to producers of livestock, honey bees, and farm-raised fish who suffer from adverse weather. As of June 21, 2011, FSA has issued payments to producers totaling $350.5 million for LFP, $108.8 million for LIP, and $28.8 million for ELAP covering losses during calendar years 2008 through 2011.

This disaster package has been an important means of assistance for producers. An example of its importance includes the recent case of Miller County, Arkansas. This county was approved for LFP after meeting the eligibility criteria on December 28, 2010 because of severe to extreme drought in over half the county. The conditions forced several producers out of business and others to take herd reduction measures. For those producers who have chosen to stay in the business, LFP has been of substantial benefit. LFP provided a little over $460,000 to producers ranging from large feeder calf operations to small family-owned cattle herds, and has helped many begin the process of recovery.

Credit Conditions in the Livestock Sector

As profit margins improve, credit availability for livestock producers has improved. However, many livestock farmers, particularly dairy producers, lost a substantial amount of equity over the past few years. Even though the profit situation has improved, high feed prices are keeping margins tighter than usual for livestock producers. In addition, oversight authorities continue to focus on agricultural loans due to concerns over the sustainability of farm real estate values. As a result, many lenders remain cautious in providing credit to livestock producers. USDA continues to work to make sure that producers have access to credit, including working closely with agricultural lenders.

Trade Issues

USDA has also made strides to reduce barriers to U.S. beef exports. In 2011, the value and volume of U.S. beef exports are expected to exceed the pre-BSE levels of 2003. Nearly 100 countries are open to at least some U.S. beef and beef products. This reflects the efforts of USDA and USTR to prevent markets from closing, as well as the re-opening of some 80 markets after the detection of a case of BSE in 2003. Continued expansion of beef trade remains a priority for USDA and USTR.

USDA and USTR are focused on a trade strategy that will increase trade opportunities for livestock, and indeed all of U.S. agriculture. Our strategy includes securing Congressional approval of the trade agreements with South Korea, Colombia, and Panama. Under the Korea agreement, increased meat and poultry access includes reductions in Korea's tariffs on beef, which will decline from the current 40 percent to zero in 15 equal annual reductions; duty-free entry for more than 90 percent of U.S. pork products by 2016; and tariffs on poultry leg quarters dropping from 20 percent to zero over 10 years. Under the terms of the agreement with Colombia, all prime and choice beef cuts receive immediate duty-free treatment. Tariffs on most key pork products phase-out within five years and chicken leg quarters receive an immediate 27,040 metric ton tariff-rate quota (TRQ) with 4 percent annual growth. Like the Colombia agreement, the Panama agreement will provide immediate duty-free treatment for USDA Prime and Choice beef cuts. Tariffs on pork variety meats will be eliminated immediately and preferential duty-free TRQs will be established and grow over time for fresh and frozen pork cuts, pork fat and bacon, and processed pork. Likewise, a TRQ will be established for chicken leg quarters and, over time, all tariffs on poultry will be eliminated.

Conclusion

USDA is committed to ensuring that we work together with U.S. livestock producers to meet both the challenges and opportunities of the future.

We appreciate the opportunity to testify before this Committee today, and look forward to working with you, Madame Chairwoman, Senator Roberts, and all the members of this Committee as we continue our hard work to ensure that USDA is responsive to the needs of the livestock industry.

We will be happy to answer questions you may have.

Appendix. Farm Economic Indicators

Ag. Trade (Bil. $)	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11F
Total exports	56.0	62.4	62.5	68.6	82.2	114.9	96.3	108.7	137.0
Asia	21.6	24.3	22.5	24.9	29.4	43.2	37.6	45.7	59.5
Canada	9.1	9.5	10.4	11.6	13.3	16.3	15.5	16.6	18.5
Mexico	7.7	8.4	9.3	10.4	12.3	15.2	13.3	13.9	17.0
Total imports	45.7	52.7	57.7	64.0	70.1	79.3	73.4	79.0	93.0
Farm Income (Bil. $)	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010F**	**2011F**
Cash receipts	216.0	237.9	240.9	240.6	288.5	318.3	283.4	312.3	340.7
Gov't payments	16.5	13.0	24.4	15.8	11.9	12.2	12.3	12.2	10.6
Gross cash income	246.8	266.5	279.7	273.2	318.0	352.0	317.6	345.6	372.5
Cash expenses	174.7	182.9	193.1	204.8	240.3	261.6	248.5	254.2	273.9
Net cash income	72.1	83.7	86.7	68.4	77.7	90.4	69.1	91.3	98.6

Commodity Prices 1/	Unit	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11F	2011/12F
Wheat	$/bu	3.40	3.42	4.26	6.48	6.78	4.87	5.70	7.00-8.40
Corn	$/bu	2.06	2.00	3.04	4.20	4.06	3.55	5.20-5.50	6.00-7.00
Soybean meal	$/ton	183	174	205	335	331	311	350	375-400
		2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011F**	**2012F**
Hogs	$/cwt	50.05	47.26	47.09	47.84	41.24	55.06	62-65	61-66
Steers	$/cwt	87.28	85.41	91.82	92.27	83.25	95.38	110-114	111-120
Broilers	cents/lb	70.8	64.4	76.4	79.7	77.6	82.9	82-85	82-88
Milk	$/cwt	15.19	12.96	19.21	18.45	12.93	16.35	19.65-20.05	17.75-18.75

1/ Agricultural commodity price forecasts are from USDA, World Agricultural Supply and Demand Estimates report, June 9, 2011.
F=forecast.

QUESTIONS AND ANSWERS

JUNE 28, 2011

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Alfred V. Almanza
Administrator of the U.S. Department of Agriculture (USDA) Food Safety Inspection Service (FSIS)
June 28, 2011

Senator Debbie Stabenow

1) It is common for multiple agencies to partner with researchers in ARS to study ways to enhance food safety and animal health and develop new technologies that are applied in the regulatory system. As it relates to your specific mission, are you concerned that funding decreases will negatively impact your ability to ensure animal health or safe and wholesome meat and poultry products?

   Response: The Agency would seek to achieve efficiencies and, thus, minimize the impact of any funding decreases on the Agency's regulatory responsibilities, on industry, and ultimately the consumer. As required by law, FSIS inspection program personnel will continue to be present at all times for slaughter operations. In fact, slaughter facilities are prohibited from operating without their presence.

2) What is your assessment of our current food safety system for meat and poultry?

   Response: The final measure of FSIS' success is the reduction of illnesses caused by meat and poultry products. Pathogen reduction is central to reducing illnesses and measuring the prevalence of pathogens is an important way for FSIS to measure progress towards its ultimate objective, reducing foodborne illness.

   According to the most recent data from 10 States reported by the Centers for Disease Control and Prevention's (CDC) Foodborne Diseases Active Surveillance Network (FoodNet), pathogens often associated with FSIS-regulated products have declined since the 1996-1998 baseline, including *E. coli* O157:H7 (down 44 percent), *Campylobacter* (down 27 percent), and *Listeria* (down 38 percent). Incidence of *Salmonella* infections have not declined significantly since 1996-1998.

   Thus, while FSIS has made considerable progress over the years in reducing the incidence of foodborne illnesses in the products we regulate, the Agency still has much more work to do in building a truly preventative food safety system. FSIS continues its intensive efforts to reduce the incidence of foodborne illness and the prevalence of foodborne pathogens in the meat, poultry, and processed egg products supply.

3) Foodborne illness is an area in which FSIS has made great progress in recent years. The incidence of food poisoning is down 25% and *E. coli* infections have been cut in half.

The recent *E. coli* outbreak in Germany has brought into light certain strains of *E. coli* that are not currently tested for. What is FSIS doing to prevent similar outbreaks in the U.S.? What is the status of your proposal to increase the strains of *E. coli* tested for in ground meat? What are the implications of listing these additional strains as "adulterants" in the food supply? Is FSIS equipped to handle the increased testing?

Response: On September 13, 2011, USDA announced that it is taking new steps to fight *E. coli* and protect the safety of the American food supply. Six additional serogroups of pathogenic *E. coli* will be declared adulterants in non-intact raw beef and prohibited from sale to consumers. FSIS will begin testing for these six serogroups of STEC and enforcing the new policy on March 5, 2012.

4) FSIS is considered the leader in food safety thanks, in part, to your HACCP-based inspection program and your close working relationship with processors. What programs have been essential in helping FSIS become the leader in food safety? What additional steps have been taken to reduce pathogens in the domestic meat supply? How has our food safety changed since instituting the HACCP-based program?

Response: HACCP has been the foundation of USDA inspection since 1996. It's based on sound, solid principles and has been an extremely important shift in our approach to protecting the food supply.

We've made great strides in the past fifteen years under HACCP. Since 1996, for example, *E. coli* O157:H7 illnesses have been reduced by about 44 percent. HACCP has been a significant improvement for public health and has given consumers more confidence in the food safety system.

Using HACCP and the Agency's regulatory sampling program as tools and indicators, FSIS is always looking for new and innovative ways to keep consumers safe from foodborne illness. For example, in 2003, FSIS issued an interim final rule announcing that *Listeria* is a hazard "reasonably likely to occur" in ready-to-eat food products. In addition, FSIS is currently investigating effective policy options for the control of non-O157 STEC.

5) Undoubtedly, one of the reasons behind FSIS's success in the food safety realm is the maintenance of a good working relationship with industry. But, industry has voiced some serious concerns in regards to your new Public Health Information System (PHIS) - the FSIS depiction of this program is not the current reality because the data collected is not readily available to the plant. Can you provide a timeline for plant-level access with the new PHIS system? What have been the barriers to full plant-level access with the PHIS system?

Response: Before implementing PHIS on April 11, 2011, FSIS announced that it would be postponing industry access to PHIS until FSIS has the capacity to provide technical support that would be needed by industry members if they were to use the system.

Rather than providing access without proper support, FSIS decided to postpone this part of PHIS.

Senator Max Baucus

1) Worldwide demand for aquaculture products is increasing, while consumers are demanding aquaculture products to be safe and wholesome. The entire food fish production is forecast to reach about 150 million tons by 2030. Aquaculture in developing countries has the biggest growth potential for future fish production. In those countries, aquaculture could increase up to 76 million tons by 2030 including.

   The 2008 Farm Bill requires the U.S. Department of Agriculture (USDA) Food Safety Inspection Service (FSIS) to establish a new program for the inspection of "catfish." The 2008 Farm Bill requires the Secretary of Agriculture to define the term "catfish" for this new inspection program. One possible definition is catfish native to North America that belong to the family Ictaluridae. Another possible definition is all fish of the order Siluriformes.

   If catfish are eventually defined as all fish of the order Siluriformes, FSIS would inspect domestically produced catfish and would reinspect all imported catfish. If eventually defined as fish only of the family Ictaluridae, FSIS would inspect domestically produced catfish and would re-inspect approximately 20-25 percent of imported Siluriformes.

   The U.S. economy relies on free and open markets for the distribution of goods. It is important to ensure that the definition of "catfish" for the new inspection program is determined through sound science. The program should not be used as a vehicle to restrict trade under the guise of food safety.

   What factors will be considered in determining the definition of "catfish" for implementing the new catfish inspection program?

   Response: The proposed rule sought public comment on the definition of catfish, as well as the means to determine which definition would be most appropriate. USDA accepted public comments until June 24, 2011, and is currently considering them before moving forward with the final rule.

Senator Kirsten Gillibrand

1) **Meat Pathogens**- Ironically, as Europe and now France are grappling with the most devastating *E. coli* outbreak in history, our bipartisan commitment to safeguarding America's food supply is breaking down. This year we enacted the Food Safety

Modernization Act to prevent the kinds of tragedies occurring in Europe and now funding for its implementation is in jeopardy. According to a recent report from the Georgetown University Produce Safety Project, acute foodborne illness costs us $152 billion annually in health care and economic losses, in addition to human suffering and death. Because of testing and education the incidence of *E.coli* O157: H7 has significantly decreased in our meat supply. Unfortunately, there has been an increase in the non-O157 *E.coli* contaminates and *Salmonella* because these pathogens are not tested for like O157:H7. This testing is necessary because there are over 65,000 illnesses caused by *Salmonella* contaminated beef each year resulting in 24 deaths. Additionally, there are nearly 100,000 illnesses caused by non-O157 *E.coli* and 30 deaths. The USDA has recognized this problem and has budgeted $700,000 for the testing of non O157 *E.coli*. I appreciate the voluntary effort being made and ask what progress has occurred thus far? Do you feel a policy change to test for these other pathogens needs to be made?

Response: On September 13, 2011, USDA announced that it is taking new steps to fight *E. coli* and protect the safety of the American food supply. Six additional serogroups of pathogenic *E. coli* will be declared adulterants in non-intact raw beef and prohibited from sale to consumers. FSIS will begin testing for these six serogroups of STEC and enforcing the new policy on March 5, 2012.

<u>Senator Saxby Chambliss</u>

1) In Georgia, we have several seafood processing plants that process both catfish and other seafood. They are concerned that splitting seafood jurisdiction will result in increased red tape and compliance costs with two different sets of federal government inspectors at their site depending on whether they are processing catfish or any other seafood. They are concerned that they are going to have to spend more time complying with two sets of government regulations instead of creating jobs and growing their business.

   Can you explain to me how seafood importers in Georgia would deal with two sets of government inspectors in the same facility?

   Would the seafood importers have to segregate their product based on species?

   Please explain how USDA plans to implement the Catfish Inspection Program at facilities that process a wide variety of fish?

   Response: Once USDA's Catfish Inspection Program is implemented, establishments that slaughter and process catfish, in addition to non-amenable fish, will be considered dual-jurisdiction establishments (DJE). At that time, if an establishment were to slaughter or process non-amenable fish separately from catfish (separated by time or space), that non-amenable component would continue to fall under Food and Drug Administration (FDA) jurisdiction, and FSIS would not inspect the production of the non-amenable product. However, if the non-amenable product were to enter the process of amenable product (in this case, catfish), FSIS inspectors would verify that the non-amenable component is clean, sound, healthful, wholesome, and will not cause adulteration of the amenable product (9 CFR 318.6(a)).

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Dr. Joe Glauber, Chief Economist, USDA
June 28, 2011

Senator Debbie Stabenow

1) **Question:** How much of CRP acreage is on corn or wheat base acreage? A common argument for penalty-free early outs from CRP is that it would take pressure off of rising corn prices by increasing supply. What does USDA estimate would be the increase in corn production if all corn and wheat base acres currently under CRP contracts were planted to corn and what is the impact on the ending stock estimates for corn?

Answer: Under current regulations, total base acreage on a farm cannot exceed total cropland less acreage enrolled in the CRP. For example, if a farm has 500 acres of cropland and 400 base acres of program crops and enrolls 50 acres into the CRP, there would be no reduction in the farm's base acres. Or, alternatively, if a farm has 500 acres of cropland and 400 base acres and enrolls 110 acres into the CRP, base acres would be reduced by 10 acres. Furthermore, any reduction in base acres for any particular crop is at the discretion of the producer. Taking the latter example, if the producer had both 200 acres of corn base, 150 acres of soybean base and 50 acres of oat base, the producer could reduce the oat base by 10 acres and make no adjustment in the corn and soybean bases. These examples suggest that changes in base acres when acreage is enrolled in the CRP may provide very little insight into farmer's planting decisions once acreage is released from the CRP.

The crop designation for base acres does not constrain the producer's choice of what commodity crop to plant on their cropland; if acreage is taken out of CRP, the producer may plant any commodity crop he wishes on that land. Estimates of how much CRP acreage could be planted with a given crop assume that the predominant crop grown in that region would be planted on the acreage if it were released from CRP. Crop production data and the location of acreage enrolled in the CRP indicates that about 17 percent of enrolled acres could be planted to corn and about 27 percent of enrolled acres could be planted to wheat. Based on current enrollment of 31.2 million acres and the previous figures, corn and wheat acres enrolled in the CRP could be as much as 5.5 and 8.2 million acres, respectively. These figures are upper bounds for the amount of acres that would be planted to corn and wheat if land was released from the CRP, since past studies have indicated that as much as 50 percent of land enrolled in the CRP may not return to crop production following expiration of CRP contracts.

Although crop prices have significantly increased recently, producers with expiring contracts still sought to enroll about two-thirds of expiring acres in this past spring's signup. And for lands that have recently come out of the program, the biggest share was kept in grass and not planted to corn. The best potential for cropping of existing CRP land is for wheat, since much of the land is located in drier southern and western regions not well suited to corn production.

2) **Question:** We heard from a producer on the second panel who is a part of a large turkey cooperative in Michigan. This cooperative was formed out of necessity when a large processor closed operations in Michigan in order to keep the industry alive and growing in the State. How does the economic analysis of the GIPSA rule take into consideration this and similar situations?

   Answer: For market institutions to improve efficiencies and generate benefits for consumers and producers, they must ensure that property rights are protected, competition is fostered, and information flows smoothly. Market institutions can be designed to facilitate competitive exchanges, but they can also be designed to facilitate the exercise of market power, and it is here that GIPSA actions can play an important role in ensuring the survival of competitive markets.

   Rules can also impose costs on an industry. In the economic analysis of the rule, we will focus not only on the direct costs of implementing provisions of the rule, but also the potential indirect costs from actions taken as a result of the new rules.

3) **Question:** I know some in Michigan are looking into mobile processing units, from an economic perspective what other tools can assist producers and local, rural economies?

   Answer: USDA has a wide array of programs that assist producers and local, rural economies. These programs include grants and loans to producers and to organizations in rural communities to develop new markets and products and address local infrastructure concerns. USDA's research and extension programs can assist in the development of new products and provide new economic opportunities for producers and local, rural economies.

   For example, USDA's Farmers Markets and Direct-to-Consumer Marketing program works to improve market access for operators of small and medium-size farms, helping them to compete effectively outside the mass supermarket system and other large wholesale market channels. Under this program, USDA promotes and supports the development and continued operation of all areas of direct-to-consumer marketing including:

   - Farmers markets, farm stands, and roadside stands
   - Community-supported agriculture (CSA)
   - "Pick-your-own" farms
   - Internet marketing
   - Niche markets

We encourage and support development of private direct marketing and farmers market associations and State-level associations, and we promote collaboration and coordinate regional networking among private and public organizations. These are just a few examples of how USDA's programs assist producers and local, rural economies.

4) **Question:** The livestock disaster provisions we added in the 2008 Farm Bill are critical with the severe droughts and flooding we've seen. Has USDA analyzed the economic impacts of these programs and, if so, what has USDA found?

   Answer: The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) established several standing disaster assistance programs, including three programs that provide assistance to livestock producers: the Livestock Indemnity Program (LIP); the Livestock Forage Disaster Program (LFP); and the Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP). To be eligible for assistance qualifying losses must occur on or before September 30, 2011.

   LIP provides financial assistance to livestock producers who suffer livestock death losses in excess of normal mortality because of eligible adverse weather events. As of July 12, 2011, livestock producers have received compensation in the amount of approximately $6.3 million for 2011 calendar year losses. Total compensation paid to livestock producers for previous calendar years is as follows: $25.5 million for 2008; $62.5 million for 2009; and $16.3 million for 2010.

   LFP provides financial assistance to livestock producers who suffer qualifying grazing losses due to drought; or fire on federally managed rangeland. As of July 12, 2011, livestock producers have received approximately $86.4 million in compensation for 2011 calendar year losses. Total compensation paid to livestock producers for previous calendar years is as follows: $163.9 million for 2008; $98.1 million for 2009; and $32 million for 2010.

   ELAP provides emergency assistance to eligible producers of livestock, honeybees and farm-raised fish that have losses due to disease, adverse weather or other conditions, including losses due to blizzards and wildfires. ELAP covers losses that are not covered under LFP, LIP and the Supplemental Revenue Assistance Payments Program (SURE). To date, ELAP has provided over $29 million in benefits to eligible livestock, honeybee, and farm-raised fish producers for 2008 through 2010 calendar year losses nationwide.

   USDA has not analyzed the economic impacts of these programs on producers, local businesses and rural communities.

5) **Question:** According to the latest USDA corn usage estimates, what is the adjusted percentage of the corn crop that is utilized for livestock feed when you factor in distillers grains?

   Answer: For the 2010/11 marketing year, USDA estimates that 40 percent of the corn crop was utilized for livestock feed. In 2010, a total of 12.45 billion bushels of corn was produced in the U.S and for the 2010/11 marketing year USDA estimates that feed and residual use of corn will total 5.0 billion bushels. Based on USDA's August 11, 2011 World Agricultural Supply and Demand Estimates report, 37.9 percent of the 2011/12 corn crop will be utilized for livestock feed. These estimates exclude the use of distillers' grains as feed. Since distillers grains are not classified as corn in the USDA corn supply and use balance sheet, USDA has not adjusted the corn usage estimates to reflect feeding of distillers grains and does not have a methodology for making such an adjustment.

6) **Question:** Please provide a detailed breakdown of corn and soybean usage for 2005-2010, with specific information detailing the amounts of corn for feed, corn for ethanol, distillers grains for feed, and soybeans/soymeal for feed.

Answer: The following table contains the data as requested.

	Units	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Corn for Feed and Residual	Bil. Lbs.	342.4	310.2	328.0	290.2	287.8	280.0
Corn for Ethanol	Bil. Lbs.	89.8	118.7	170.7	207.7	255.8	282.8
Soymeal for Feed	Bil. Lbs.	66.4	68.7	66.5	61.5	61.3	61.4
Distillers Grains for Feed	Bil. Lbs.	20.5	27.6	38.8	48.0	55.5	61.3

7) **Question:** Comparing corn usage, feed demand, soy meal for feed, DDG's for feed, what has been the trend of usage among the livestock sector since 2005?

Answer: Corn feed and residual use has declined 18 percent from 342 billion pounds in 2005/06 to 280 billion pounds in 2010/11. Over the same period, soymeal domestic use has dropped about 5 billion pounds. In contrast, the estimated amount of distillers grains used for feed has increased from 20.5 billion pounds in 2005/06 to 61.3 billion pounds in 2010/11. Over the period from 2005/06-2010/11, combined feed use of corn, soymeal and distillers grains declined from an estimated 429 billion pounds in 2005/06 to 403 billion pounds in 2010/11 and ranged from a high of 433 billion pounds in 2007/08 to a low of 400 billion pounds in 2008/09.

8) **Question:** What is the largest driver for rising food commodity prices?

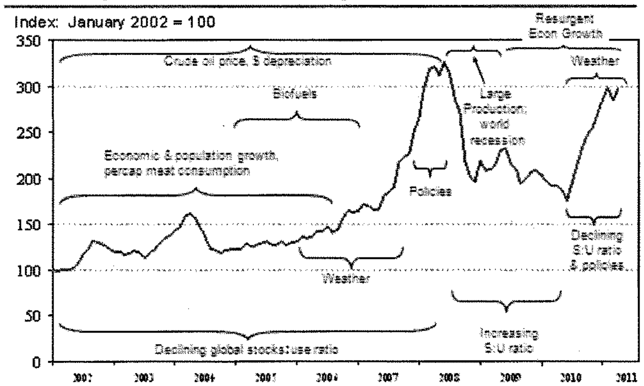
Answer: Long term trends that contribute to commodity price increases include: global growth in population and per capita incomes, rising world per capita consumption of animal products, strengthening energy prices, growing global biofuel production, depreciation of the U.S. dollar, countries' agricultural, trade, and macroeconomic policies, and slower growth in agricultural productivity. At any point in time, the relative importance of these factors may change, so it is difficult to identify a single factor as being the "largest" driver of higher food commodity prices. Globally, farmers respond to higher prices by expanding production, which will lead to falling food commodity prices. In the short-term, supply disruptions such as droughts and other weather events, trade restrictions, and other "shocks" can push prices higher.

Food commodity prices have been rising in general since 2002, with a price spike in 2007/08 and a spike that began in mid 2010. Primary commodity prices (non-fuel and energy commodities) and petroleum prices are also rising. In the 2007/08 and the current price spike, oil and primary commodity prices peaked at higher levels than food.

Based on a recent USDA, Economic Research Service report, *Why have Food Commodity Prices Risen Again?*[1], the recent increase in prices has been due to growing demand and tightening supplies attributed to:

- recovery from the global recession leading to economic expansion, improved per capita income, and increased demand for meats in diets and grains for livestock in developing countries that are expanding domestic meat production;
- depreciation of the U.S. dollar since March 2009, and a drop in the agricultural trade weighted value from the early 2000s making U.S. exported commodities cheaper in the global market;
- political decisions that restrict available supplies on the market (e.g., exports bans) or that expand market demand (e.g. removal of import barriers such as levies and import surcharges) lead to strengthening commodity prices;
- higher energy prices which increase the cost to produce, process and distribute agricultural commodities; and,
- weather adversely affecting production in a number of countries contributing to rising prices; sugar cane, coffee, tea, palm oil, and vegetable oils, corn, soy, and wheat prices have all risen dramatically over the past 12 months.

Primary factors affecting crop prices[1]

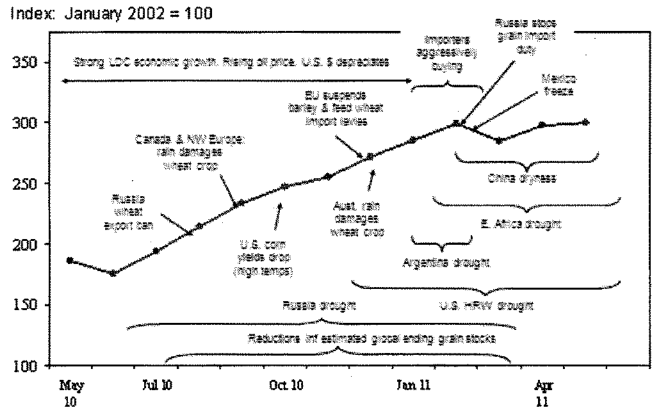


[1] 4-crop monthly price index: Wheat, rice, corn, & soybean prices, weighted by trade shares.

Source: USDA/ERS calculations based on IMF: International Financial Statistics

[1] http://www.ers.usda.gov/Publications/WRS1103/WRS1103.pdf

Primary factors affecting crop prices[1] (June 2010 – May 2011)



1/ Four-crop price index: Wheat, rice, corn, & soybean prices, weighted by trade shares.
Source: International Monetary Fund: International Financial Statistics

ERS

9) **Question:** Have you or any other economists analyzed the economic ramifications for eliminating all support for ethanol (RFS, VEETC and the tariff)? Has a full cost-benefit analysis of the impacts of such a policy change been completed and what are the estimated impacts on producers, jobs and economic growth in rural economies?

Answer: Two recent studies have assessed the impacts or effects of biofuels policy instruments, such as the renewable fuels standard (RFS), volumetric ethanol excise tax credit and the ethanol surcharge applied to ethanol imports on commodity prices. These studies are based on large scale econometric models of the agricultural sector, some with international markets integrated into the structure, and with linkages to consumer food prices.

A recent study conducted by Dr. Bruce Babcock, Director of the Center for Agricultural and Rural Development (CARD) at Iowa State University, evaluated the impact of biofuels policies on agricultural commodity prices and food prices over the 2005/06 to 2009/10 crop marketing years.[2] Babcock found the impacts of the VEETC and RFS subsidies were quite modest. Without the ethanol subsidies, ethanol margins fall, reducing the incentive to produce corn ethanol, and in turn, leading to a smaller demand

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[2] Babcock, Bruce. "Impact of U.S. Biofuels Policies on Agricultural Price Levels and Volatilities." International Center for Trade and Sustainable Development. Issue Paper No. 35. June 2011. Available at http://ictsd.org/downloads/2011/06/babcock-us-biofuels.pdf

for corn by ethanol producers. The largest impact of subsidies occurred in the 2007/08 marketing year when corn prices would have been $0.30 per bushel (7.1 percent) higher. The effects of U.S. ethanol subsidies on the prices of wheat, rice and soybeans were smaller, with a 2.8 percent price impact on soybeans in 2008/09 being the largest impact on these other crops.

The impact of U.S. ethanol policies on higher feed costs and on consumer prices of eggs, beef, pork and broilers was even smaller. The largest impact on any of these products was a two-cent-per-dozen (1.1 percent) increase in egg prices. All other product prices were impacted by much less than 1 percent.

Babcock also examines the impact of ethanol policies on current (2011) and expected prices for the following year. He utilizes another econometric model to conduct a stochastic analysis (the model is simulated many times to reflect crop yield uncertainty). The model finds current-year and one-year-ahead market-clearing prices and quantities of U.S. and Brazilian ethanol, U.S. biodiesel, world corn, soybean, soybean oil and soybean meal prices. Babcock's findings are:

- Brazilian ethanol prices are currently much higher than U.S. ethanol prices, because of strong domestic demand growth due to expansion of its flex-fuel vehicle fleet and no growth in sugarcane supply. This price gap means that removal of the U.S. import surcharge and tariff on ethanol would have no impact on model-estimated trade flows because the United States does not import Brazilian ethanol under any of the model runs.
- Corn prices in the 2011 calendar year would be about 17 percent lower than they are expected to be under current policies if ethanol subsidies had been eliminated before the beginning of the year. One reason why the impacts of U.S. subsidies is so much larger than that estimated over the historical 2005/06 – 2009/10 period is the tight market conditions that currently exist.

A second study was recently conducted by the Food and Agricultural Policy Research Institute (FAPRI)[3]. The FAPRI study analyzed the consequences of extending the VEETC ($0.45 per gallon) and the $0.54 per gallon import surcharge indefinitely. Biofuels policy assumptions included the mandates under the RFS, expiration of the VEETC and biodiesel tax credit at the end of 2011, and the additional credit for cellulosic biofuels were assumed to expire at the end of 2012. The baseline also assumes annual waivers of the cellulosic biofuel mandate (with total and advanced mandates reduced in concert) and subsequent issuance of waiver credits which set the price for cellulosic

[3] Food and Agriculture Policy Research Institute. "US Biofuels Baseline and Impact of Extending the $0.45 Ethanol Blenders Credit.": FAPRI-MU Report 07-11. June 2011. Available at: http://www.fapri.missouri.edu/outreach/publications/2011/FAPRI_MU_Report_07_11.pdf

RINs. In addition, the majority of advanced biofuel not included in the cellulosic biofuel and biobased diesel mandates is assumed to be imported sugarcane ethanol.

The FAPRI analysis concludes that the extension of the VEETC and import surcharge will:

- increase domestic production of ethanol from corn starch by 1.2 billion gallons a year, using an additional 440 million bushels of corn. Corn area expands by an average of 1.7 million acres, while soybean area falls by 800,000 acres. Corn prices increase an average of $0.18 per bushel above baseline levels.

- ethanol rack prices rise over the 2011/2 to 2014/15 period by an average of 20 cents per gallon and retail ethanol equivalent prices fall between 5 and 10 cents per gallon with extension of the blender credit. A portion of the blender credit is passed back to biofuel producers, while a share of it is passed on to consumers.

- the advanced and cellulosic RIN prices, beginning in 2015/16 rise to nearly $0.40 per gallon. Extension of the ethanol tariff increases the price of advanced RINs given the assumption that imports of sugarcane based ethanol provide the majority of non-cellulosic, non-biodiesel advanced RINs.

FAPRI also concludes that the results of its study:

- are sensitive to the market context. If average petroleum prices are significantly higher, the blender credit may lead to greater increases in ethanol production, increasing corn fuel use and prices. If average petroleum prices are significantly lower, extension of the blender credit may have little effect on ethanol produced from corn due to binding mandates.

- if domestically produced advanced fuels were to be produced in significant quantities, the effect on advanced RIN prices from tariff extension would be reduced.

The EPA is assumed to waive the total and advanced mandate by the same amount as the cellulosic mandate is reduced. Alternative assumptions about EPA actions, when waiving the cellulosic mandate, could have important impacts on demand for biodiesel, other advanced biofuels and corn starch-based ethanol.

10) **Question:** Given the price of corn and recent concerns expressed by the livestock sector, please provide analysis of the economic health of the meat sector currently compared to previous years where corn prices were lower. Besides the price of corn, what other factors have significant impacts on the economic health of the livestock sector and what is the relative impact of the price of corn compared to the others? Were there significant changes in the business models of livestock production that either helped adjust to changes in the price of corn or otherwise hindered producers' ability to make such adjustments?

Answer: For hogs and cattle, profit margins were down during the first six months of 2011, compared to the same period last year but profit margins were up from two years ago. Despite sharply higher feed costs, improvement in hog and steers prices led to lower but slightly positive returns for producers during the first half of 2011. In comparison, hog and cattle producer margins were well below breakeven levels during the first six months of 2009. In contrast, stagnant prices and much higher feed costs have pushed margins for broilers well below breakeven levels during the first six months of 2011 after profitable years in 2009 and 2010.

Many factors impact the economic health of the livestock sector in addition to the price of corn. For example, the price of other feedstuffs, the quantity and market weight of livestock sold, U.S. imports of cattle and hogs, the strength of the export for market for U.S. livestock products, economic growth in the U.S. and abroad, and animal disease outbreaks determine the profitability and economic health of the livestock sector in the United States. As we have witnessed so far this year, increases in producer prices can offset to a large extent increases in feed costs, helping to maintain profitability for hog and cattle producers. It is impossible to compare the relative impacts of all of the variables that determine the bottom line for livestock producers and ascertain the relative impact compared with the price of corn. USDA is not aware of any significant changes in the business models of livestock production that helped or hindered the ability of the livestock sector to adjust to changes in the price of corn.

11) **Question:** We heard from a producer at the hearing who suggested we move away from programs like the Conservation Reserve Program and focused more on working lands programs. What is USDA's estimate of the economic impacts (incomes, jobs, and ripple effects for the hunting, fishing and tourism industries, etc.) in rural America to eliminating the CRP program, including the economic impacts of reversing the conservation benefits provided by the program such as soil erosion and water quality? What are the economic impacts of the measurable progress CRP has made in achieving its goals of promoting conservation practices on environmentally sensitive land?

Answer: A 2004 study by USDA's Economic Research Service found that the national economic effects of allowing CRP land to return to production would be very small, with positive and negative effects within particular industries and regions largely canceling each other out. CRP's impact on local economies is sensitive to local conditions. The potential effects could be noticeable in areas of the country where CRP enrollment is relatively high. The value of alternative uses of CRP land, the value of the environmental benefits attributable to land retirement, and the extent to which goods and services are produced and provided locally all affect the CRP's local economic impacts. Nonfarm output and employment would decline in some regions if CRP contracts expired, as would aggregate household income. The study also provides estimates of the environmental benefits of enrolling land in the CRP. These benefits include improvements in water and air quality from reduced soil erosion and wildlife-related benefits from increases in the quality and quantity of wildlife habitat.

Since the beginning of the CRP in 1985, more than 8 billion tons of soil has been prevented from eroding, including an estimated 325 million tons in 2010. On CRP acreage, nitrogen and phosphorus losses were reduced by an estimated 600 million pounds and 100 million pounds respectively, in 2010. In addition, CRP reduces the impacts of downstream flood events and recharges groundwater aquifers. Approximately 2.3 million ducks per year are produced on CRP lands in the Prairie Pothole Region and nearly 750,000 Northern Bobwhite Quail are produced annually on CRP lands.

The full report, "The Conservation Reserve Program: Economic Implications for Rural America." can be accessed at http://www.ers.usda.gov/publications/aer834/aer834.pdf.

Senator Tom Harkin

1) **Question:** What is your view, please, on the question of whether use of corn for ethanol is increasing corn prices? To what extent is corn usage in biorefineries causing higher corn prices, and to what extent are those corn price increases due to other factors such as increasing demand for other uses, weather events here and abroad, energy prices, and the value of the dollar?

   Answer: The growth in the demand for corn for ethanol production has contributed to stronger and higher corn prices than would have been observed in the absence of that demand. Over the past five years ethanol production has risen from 4.9 billion gallons in 2006 to 13.3 billion gallons in 2010. Over this same time frame there have been two significant commodity price spikes in 2007/08 and 2010/11.

   Corn prices are also influenced by global growth in population and per capita incomes, rising world per capita consumption of animal products, strengthening energy prices, depreciation of the U.S. dollar, countries' agricultural trade and macroeconomic policies, and growth in agricultural productivity.

   The market price is determined by the total available supplies of corn and the total demand for that corn which includes feed, export, food, seed, and fuel use.

   Several studies have examined the relative importance of the factors that influence corn prices. A study by the International Center for Trade and Sustainable Development, concluded that slightly less than 50 percent of the 75 percent increase in corn prices between 2004 to 2009 is due to market expansion of ethanol production and slightly more than 50 percent of the increase is attributed to all other factors (*The Impact of US Biofuels Policies on Agricultural Price Levels and Volatility* by Bruce Babcock)[4] Other relevant reports include the USDA's, Economic Research Service report (*Why have Food Commodity Prices Risen Again?)*[5], the Farm Foundation, (*What's Driving Food Prices in*

[4] http://ictsd.org/downloads/2011/06/babcock-us-biofuels.pdf

[5] http://www.ers.usda.gov/Publications/WRS1103/WRS1103.pdf

2011?)[6] which all conclude that ethanol was an important though not sole factor in recent increases in corn prices.

2) **Question:** I'd also like to understand our corn supply and corn use situation here in the United States. I believe that, in general terms, we are continuing to supply about as much corn for livestock feed, for food products and industrial purposes, and for exports as we have over the past 20 years. I also believe that the increased use of corn for ethanol production has largely been met by increased corn production that has resulted from a combination of greater acreages and higher yields per acre. Is my understanding correct?

   Answer: Yes, we continue to supply about as much corn for livestock feed, for food products and industrial purposes, and for exports as we have over the past 20 years despite increasing use of corn for production of ethanol. In 1990/91, the U.S. planted 74.2 million acres of corn and produced 7.9 billion bushels of corn. That same marketing year, 1.7 billion bushels of corn were exported, 1.4 billion bushels went to food, seed and industrial use and feed and residual use accounted for 4.6 billion bushels of corn use. For the 2010/11 marketing year, 88 million acres were planted to corn and the U.S. produced 12.4 billion bushels of corn of which 1.9 billion bushels were exported and 6.4 billion bushels went to food, seed and industrial use. Feed and residual use is estimated at 5.0 billion bushels for 2010/11 or up 0.4 billion bushels from 20 years ago. This understates the increase in the availability of feed for livestock, dairy and poultry over the past 20 years. Over the past two decades, increasing production of ethanol from corn has led to a corresponding increase in the availability of ethanol by-products, such as distillers' dried grains, which has become an increasingly important source of feed for livestock producers.

3) **Question:** And in fact, when you count the distillers' grains produced at biorefineries that are used as livestock feeds, what has happened to the net amount of corn going into the livestock, dairy, and poultry sector over the past 10 years or so?

   Answer: The expansion of corn ethanol production has led to increased production and use of distillers dried grains (DDG), a high protein value feed ingredient. Approximately 30 million metric tons (mmt) of DDG were available as animal feed in recent years compared to less than 5.0 mmt prior to 2000/01.

<u>Senator Saxby Chambliss</u>

One of the frequently stated goals of USDA is to "revitalize and repopulate rural America." I believe the best way to realize this goal is to set conditions that allow agricultural businesses to thrive and expand. A strong agricultural economy will act as a force multiplier for other rural businesses to grow and profit. I am concerned that the GIPSA rule will have the opposite impact and I share my colleagues concern that the Department published the rule without understanding the economic impact on the livestock industry.

[6] http://www.farmfoundation.org/webcontent/Whats-Driving-Food-Prices-in-2011-1742.aspx?z=85&a=1742

1) **Question:** Was your office consulted early on by GIPSA to provide an economic analysis on the costs and benefits resulting from the proposed rule?

   Answer: GIPSA followed the standard practice for rule development and used GIPSA staff economists to provide an economic analysis of the proposed rule. The rule and the economic analysis were presented to the Office of the Chief Economist for review and clearance.

2) **Question:** Is the process employed by USDA officials in this case normal for a rule that has admittedly such a profound economic impact as this one?

   Answer: USDA followed its standard process documented in USDA Departmental Regulation 1512 for development and review of the proposed rule. The process for preparing the economic analysis of the final rule differs from normal. The Chief Economist has been asked to lead this economic analysis of the final GIPSA rule by Secretary Vilsack.

3) **Question:** Does the Office of Management and Budget normally let a rule of this magnitude proceed without a comprehensive economic analysis?

   Answer: Executive Order (E.O.) 12866 of September 30, 1993, Regulatory Planning and Review, defines the responsibilities of Agencies and the Office of Management and Budget (OMB) in regulatory planning and review, including the requirement for economic analyses of significant rules. The Office of Information and Regulatory Affairs (OIRA) at OMB works with Agencies to ensure economic analyses of significant rules comply with the requirements in E.O. 12866 and other OMB guidance.

4) **Question:** What type of analysis have you found in the academic literature dealing with the GIPSA rule and what are the reported results?

   Answer: The USDA rules governing ex parte communications and rulemaking prevent consideration of comments or analysis of the proposed rule outside the comment period. This would include considering academic literature that was not submitted as part of a comment.

As you know, current U.S. corn supplies are at the lowest levels in 15 years and corn prices are sustaining historically high levels. Recent USDA reports estimate use will outpace supply and the stocks to use ration for the upcoming crop year will be less than 5 percent.

5) **Question:** With over 38% of the domestic corn crop mandated to ethanol production, what steps should policy makers be prepared to implement should crop conditions worsen in the critical summer months?

   Answer: At the end of this year, the ethanol import tariff and the Volumetric Ethanol Excise Tax Credit are set to expire. Thus, there are additional few actions that policy makers could take in the short term if crop conditions worsen this summer. USDA will continue to monitor commodity markets and consider what if any actions to take, including limited early release of the least environmentally sensitive acreage enrolled in the CRP, should major crop prices remain at historically high levels.

Inventories of grains are at low levels. As a result, if crop conditions worsen this summer and production prospects diminish, prices of corn wheat and soybeans will likely increase as supplies are rationed among competing uses.

Accounting for enrollment in continuous sign-up practices this fall and winter, about 1.1-1.3 million fewer acres will be enrolled in the CRP this coming spring than one year ago. The decrease in CRP enrollment coupled with continued high prices for grains and oilseeds should provide incentives for producers to expand area planted to major crops in 2012. In addition, improved weather should lead to higher yields and a rebound in production in 2012.

6) **Question:** What would be the impacts on the ethanol industry if the Environmental Protection Agency exercised its waiver authority under the Renewable Fuel Standard regulations?

   Answer: If the Environmental Protection Agency (EPA) waived the Renewable Fuel Standard (RFS) mandates, corn ethanol production would likely decline only modestly, assuming gasoline prices continue to remain at historically high levels. Market forces, other than mandates, would determine the demand for corn by ethanol production facilities and how much ethanol is produced.

   Currently, the ethanol industry is producing above the RFS mandate, thru mid-march running at an annualized rate of approximately 13.4 billion gallons. The 2011 RFS level for renewable fuel is 13.95 billion gallons and for advanced biofuels 1.35 billion gallons, this leaves a net of 12.6 billion gallons expected to be filled by corn ethanol. Although margins are not at the level they were 2005 – 2006 period, ethanol producers have for the most part had a positive return providing an incentive to produce. However, if petroleum and gasoline prices drop sharply and corn prices remain elevated, ethanol profit margins would erode. In this instance, the waiving the RFS could lead to a sizeable reduction in ethanol production.

<u>Senator Richard G. Lugar</u>

1) **Question:** In the June 2011 WASDE report, USDA projected corn ending stocks at 695 million bushels, which is 35 million bushels lower than beginning stocks, creating a stocks-to-use ratio of just 5.2 percent. This ending stocks number reflects reduced feed grain production, given some of the weather challenges faced by Hoosier and other Midwestern producers this Spring. What assurances can the Department provide that

there will be sufficient feed grains to meet livestock feed demands? What plans has the Department made, should 2011/2012 feed grain production be lower than currently projected?

Answer: Ending stocks for the 2011/12 marketing year are currently projected at 714 million bushels, down from an estimated 940 million bushels for the 2010/11 marketing year. The ending stocks-to-use ratio for the 2011/12 marketing year is projected to fall to 5.4, down from 7.1 percent in 2010/11. Feed and residual use of corn in 2011/12 is currently estimated to account for less than 40 percent of corn production. Thus, there would appear to be ample supplies of corn to meet livestock feed demands. USDA will continue to monitor the supply and use situation for corn and other grains.

Accounting for enrollment in continuous sign-up practices this fall and winter, about 1.1-1.3 million fewer acres will be enrolled in the CRP this coming spring than one year ago. The decrease in CRP enrollment coupled with continued high prices for grains and oilseeds should provide incentives for producers to expand area planted to major crops in 2012. In addition, improved weather should lead to higher yields and a rebound in production in 2012.

2) **Question:** In your testimony, you provide a summary of U.S. agricultural export statistics – the export of livestock, poultry, and dairy products are expected to reach a record $26.5 billion in fiscal year 2011, an increase of $5 billion from last year. Has your Office examined the potential impact of the outstanding free trade agreements with Panama, Colombia, and South Korea? Specifically, I would like to know the estimated impact these three agreements would have on the livestock sector, and the agricultural sector more generally.

Answer: In April of this year, USDA's Economic Research Service released an analysis of the potential impact on U.S. agricultural trade of the trade agreements (TA) with South Korea, Colombia, and Panama. U.S. agricultural exports to Korea would expand by an estimated $1.9 billion per year if the U.S. TA with Korea were implemented. The U.S.-Colombia TA would result in an estimated $370 million in additional U.S. exports per year. U.S. exports would realize smaller gains of about $50 million per year under the pact with Panama. U.S. livestock product exports will benefit significantly under all three agreements. Increased exports further strengthen U.S. farm prices and the overall farm economy.

- Korea: Growth in U.S. beef exports to Korea in response to tariff reductions will be the single largest commodity gain, with over $550 million per year in new trade, or 29 percent of total U.S. agricultural trade growth. Other U.S. meat exports (mainly pork) to Korea are estimated to increase substantially due to lower prices and consumer preferences for the cuts that can be sourced profitably from the United States. Pork bellies and bone-in chicken legs, for example, are more valuable in Korea than in the United States because of differing tastes and cooking techniques. Pork and poultry exports from the United States are expected to rise by over $275 million per year, representing 14 percent of total U.S.

agricultural export growth stemming from full implementation. Growth in exports of U.S. dairy products to Korea is projected to be 145 percent, or more than $90 million per year.

- Colombia: Colombia has maintained high tariffs on most livestock products, including beef, poultry, and pork. The United States supplies about 50 percent of Colombia's beef (including fats of bovine origin), with the remainder coming from other South American countries. It is likely that U.S. exports of beef to Colombia will rise by more than 80 percent after the elimination of tariffs. The United States competes directly with Chile and Canada for exports of pork to Colombia. Currently, U.S. pork and poultry meat faces an average MFN tariff of nearly 20 percent in Colombia. The elimination of tariffs on U.S. exports would likely increase U.S. exports of these products by more than 60 percent. The MFN tariff faced by U.S. dairy product exports to Colombia currently averages about 18 percent. The scheduled elimination of these tariffs is estimated to increase U.S. exports by an additional 50 percent.

- Panama: Panama has not been a large market for U.S. meat or other livestock product exports. Some meat products face very high tariffs, such as chicken leg quarters at 260 percent. Under the agreement, many U.S. livestock product exports to Panama would receive immediate duty-free treatment, including high-quality beef, mechanically deboned chicken, frozen whole turkeys and turkey breasts, and pork variety meats. In addition, Panama agreed to establish preferential TRQs for imports of U.S. pork, lard, specified processed pork products, and chicken leg quarters. Although ERS was unable to model trade effects for Panama, the U.S. International Trade Commission estimated U.S. meat exports would account for $4.4 million of a total of $46 million in increased exports on an annual basis.

3) **Question:** In December 2010, eleven of my colleagues and I wrote to Secretary Vilsack, requesting that the Department conduct a "thorough and comprehensive" cost-benefit analysis. We asked that the analysis be conducted by you and the Office of the Chief Economist, aided by impartial, external peer review. Could you provide an update on this analysis? Specifically, I would like confirmation that the analysis will be peer reviewed and to know when we can expect this analysis to be released.

Answer: An economic team headed by the Office of the Chief Economist has been analyzing and conducting cost benefit analyses on different alternatives. These reviews have and will reflect the comments and especially the cost-related comments that were received by the agency. During this review process, preliminary decisions had been made to submit certain sections, primarily consisting of those required by the 2008 Farm Bill, as a final and interim rule to the Office of Management and Budget (OMB) for review. These rules each contained a cost benefit analysis related to these sections. Pending OMB review, the interim rule and its associated cost benefit analysis would be open to public comment including review by other economists. This public comment opportunity is now unlikely due to Section 721 of the Conference Report on H.R. 2112, the Consolidated and Further Continuing Appropriations Act of 2012, which prevents all but a very narrow set of provisions from the proposed rule from moving forward including blocking the provisions in the Interim Rule.

4) **Question:** Given the Department's role in promoting agriculture abroad and maintaining and expanding export markets for America's agriculture products, I would like to know if the Department has considered the impacts the proposed GIPSA rule will have on U.S. meat exports? Specifically, I would like to hear if your office has analyzed the potential trade impacts the proposed rule will have on U.S. agriculture exports.

Answer:
GIPSA has received a large number of comments addressing the sections of the proposed rule regarding livestock purchasing practices. Some of the comments addressed trade issues similar in nature to the issue you have raised in this question. GIPSA took these comments into consideration in the rule-making process, including the decisions on which sections to submit to OMB as part of the final and interim rules and which items to no longer pursue. Several other sections were still under consideration. Further consideration of these comments and potential modifications is unlikely at this time due to Section 721 of the Conference Report on H.R. 2112, the Consolidated and Further Continuing Appropriations Act of 2012, which prevents all but a very narrow set of provisions from the proposed rule from moving forward.

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Frank Harper
June 28, 2010

Senator Debbie Stabenow

1) EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?

I have used EQIP. I used the No-Till program as a way to move our farming operation from conventional tillage practices to no-till farming. Last year was the completion of the 3 year program which paid for the adoption of the practices in full within the first year of the program. This was a very attractive feature in the fact that it provided funds at the onset to help supplement purchases of equipment and technologies necessary to make the transition. I also used the Nutrient Management program at the same time which required yearly soil tests on the land enrolled in the program as well as records showing applications of fertilizer that reflected recommendations on the soil tests.

Perhaps the greatest thing about EQIP is it serves as a catalyst for agriculture producers to make changes. As you know, most of our operations in agriculture are family businesses that have been around for generations. This is a great thing but at times it creates a resistance to spend money to make changes to our operations, especially when things have proven to work as they are. With our input costs as high as they are, it is easy to just continue doing the same thing. However, with cost-share money available through programs such as EQIP, good decisions can be made to make things better for future generations. Also, the accountability that EQIP has built in makes producers commit to the program and the practices required.

If there is one thing negative I hear regarding EQIP it is often associated with NRCS and the designs their engineers require. For example, I had a neighbor that wanted to put in a grass waterway and started the process with cost-share from NRCS. By the time the bids were in, the contractor doing the work did the job without the cost-share for around $15K where the design NRCS proposed was going to cost around $40K. My point is that for a program like EQIP to be effective, it also has to be cost-effective.

2) What percentage of your feed ration are distiller's grains?

I started feeding distillers approximately 8 years ago. I have a cow-calf operation and initially I used it for the growing ration for my calves. Since that time I have used it for supplementing my cowherd as well. I use primarily the wet product coming directly from the ethanol plant. As far as a percentage of the ration, it will range from 15 to 20% on a dry matter basis.

3) At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?

First of all, I want to make it known that myself, KLA and NCBA are not opposed to ethanol. Our concern is that the industry has grown to a level that its demand for corn will exceed the amount the livestock industry will use this year. We realize that the livestock industry gets value from the ethanol by-products but our feeling is that the ethanol industry should have to compete fairly for corn and other feedgrains. With the continued subsidizing of the ethanol industry as well as the effects of import tariffs on foreign production, market signals are distorted and ultimately the livestock industry has to pay more for feed. The higher cost either is absorbed by the feed user, reflected in lower prices paid for cattle or passed on to the consumer.

4) In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?

I fortunately have not experienced the problem of a lack of veterinary services but I know the problem exists. Programs such as the VMLRP are a great way to encourage young veterinarians to consider a career in a large animal practice rather than only looking at the financial benefits offered by a small-animal practice.

5) If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?

Cattle producers take seriously their responsibility to care for their animals. That includes working closely with veterinarians to ensure their cattle are healthy and that they are producing safe and healthy beef products. Our families eat the same products our consumers do and we aren't willing to sacrifice safety any more than they are. Prohibiting the use of products such as these which are proven to be safe, does nothing more than take efficiencies out of food production and ultimately may result in jeopardizing our food supply. Precluding the use of antimicrobials for prevention of disease would negatively affect the welfare of our cattle.

We have seen our nation's cowherd decrease significantly over the last few years and with severe drought conditions this year, another decrease is inevitable. We need to protect the ability of producers to use products such as these that are safe and ultimately allow us to produce more with less.

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Steven D. Hunt
June 28, 2011

Senator Debbie Stabenow

1) EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?

U.S. Premium Beef (USPB) does not own any farm ground, livestock, or equipment necessary to care for land and livestock. As such, we are not eligible, do not participate in, or receive any of the advantages of the Environmental Quality Incentives Program (EQIP).

2) What percentage of your feed ration are distiller's grains?

All cattle delivered to USPB are owned by cattle producers in many states. Since beginning operations in 1997, over 2,100 producers from 36 states have marketed finished cattle on UPSB's quality based payment grids. Many of these producers utilize ethanol by-products in their rations. The percent of the ration devoted to distiller's grains will vary from producer to producer based on price, availability, and the recommendations given by the producer's consulting nutritionist. When used, my understanding is that distiller grain by-products make up approximately 15 - 20 percent of the total ration.

3) At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?

USPB has concerns over the market distorting effects of tax credits and tariffs. Currently the Volumetric Ethanol Excise Tax Credit (VEETC) allows for a $0.45 / gallon blender credit. Additionally, there is currently in place a $0.54 / gallon tariff on imported ethanol. Our belief is the ethanol industry is a mature industry, able to stand on its own, and no longer in need of these mandates and tariffs. Beef producers that deliver finished cattle to USPB must compete against the benefactors of the tax credits and tariffs while procuring corn supplies for their businesses. Elimination of these two items would serve to level the playing field for livestock producers that must compete in the marketplace for a bushel of corn.

Every bushel of corn is critical in 2011. Various private and government estimates indicate up to 40 percent of the corn crop harvested this fall could be destined for ethanol production. Current available supplies are at very tight levels. Many corn acres have been lost this summer due to drought, flooding, and poor growing conditions. In summary, the major concern USPB has regarding ethanol is the consequences to livestock producers who must compete for corn supplies against recipients of mandates and tariffs.

4) In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?

Many of USPB's cattle deliverers reside in rural areas that have received the USDA veterinary shortage designation. Access to a licensed, practicing veterinarian is critical for beef producers to establish a valid veterinary / client patient relationship, thus ensuring the veterinary oversight over the care and welfare of the producer's livestock. Compounding the issue is the increased percent of graduating veterinary students who desire a career in metropolitan areas specializing in small animal veterinary medicine.

USPB supports The Veterinary Medicine Loan Repayment Program (VMLRP) and its efforts to address the shortages of available large animal practicing veterinarians is key livestock producing rural areas.

5) If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?

USPB does not own or feed cattle, and as such does not directly utilize antimicrobials for the mentioned routines. Obviously the United States enjoys access to the world's most abundant, affordable and safest food supply. Clearly, if beef producers and their consulting veterinarians did not have access to antimicrobials for growth promotion, feed efficiency and routine disease control and prevention, the quantity and quality of protein sources available to consumers today would suffer.

USPB remains concerned over legislation that promotes the elimination of antimicrobials used for these purposes.

Senate Committee on Agriculture, Nutrition and Forestry
"The State of Livestock in America"
Questions for the Record
Submitted by Sen. Debbie Stabenow for Mr. Dennis Jones
June 28, 2010

Question 1: EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?

The Environmental Quality Incentives Program (EQIP) is important for many farmers and ranchers to allow them to be better stewards of natural resources. The program is very popular among agricultural producers but has limited availability due to funding. For example, in 2009, approximately 142,000 EQIP contracts were submitted but only 32,000 contracts were actually funded. It is clear that demand is strong for conservation assistance programs among livestock producers and EQIP should be allocated enough resources to address this popularity.

My current pork operation at James Valley Cooperative has been running for about fifteen years and did not utilize EQIP during construction nor has it enrolled since then. However, many other farmers and ranchers in my area use the program in conjunction with other conservation programs, much to the benefit of the environment.

Question 2: What percentage of your feed ration are distiller's grains?

In general, dry distillers grains do not make up a significant amount of hog feed rations. At James Valley Cooperative, dried distillers grains usually account for less than seven percent of the feed ration.

Question 3: At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?

My pork production's cooperative has experienced an impact from the growth of the American ethanol industry. As ethanol production has ramped up, the demand for corn has also increased. In general, this has pushed feed prices went up as well, so I have seen higher feed costs.

Additionally, more farmers have elected to grow corn due to the lucrative prices that have been available. As a result, the number of acres used for soybean production decreased, which suppressed supply and increased the price of soy. Simple supply and demand economics made a difference in these price changes, but more of the volatility in the commodity markets can be attributed to speculators. An influx of speculation over the last several years has probably had a lot more to do with escalating feed prices than did ethanol.

On the other hand, while energy costs have increased across the board in the United States, the increased production of ethanol helped to contain some of the energy prices spikes. Ethanol helps keep gas and other energy prices lower because its production allows more of the money involved in energy production to remain in the United States and consumers pay less to import energy. Studies have shown that if ethanol were removed from supply, domestic oil prices would increase considerably. Conversely, increasing the ethanol blend to 15 percent would reduce our dependence on foreign oil by 7 billion gallons. Greenhouse gas emissions would be reduced by an equivalent of removing over 10 million cars from the road. There are wide-ranging benefits from ethanol production to my operation and to the economy that should not be over looked.

Question 4: In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?

Access to veterinary care is becoming an issue of increasing urgency my area. Many people that pursue veterinary studies want to be small animal veterinarians rather than work with large animals. Veterinary students are often selective about which animals they will offer care for and in which areas of the country they will work. This makes access to necessary care for large farm animals in the Midwest more difficult to find. Fortunately, I am good friends with several veterinarians so it is easier for me to provide care for my livestock than it is for many others who farm in rural areas. The pork production cooperative I belong to employs two veterinarians, but they each live about 40 miles from my farm. For many other farmers, especially in the Plains states, that distance is usually even greater. Veterinary access is likely going to get worse before it improves and is an issue that will continue to affect more and more farmers across the country. Incentive programs such as the Veterinary Medicine Loan Repayment Program are welcome efforts to bring more vets into the workforce and I encourage decision makers to devote more resources to this vitally important program.

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"The State of Livestock in America"
June 28, 2011

Question 5: If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?

Antimicrobials aid agricultural efficiency and production. Without antimicrobials, feed prices would increase; as a result, production costs would also rise. Raising crops would become a harder and more financially unpredictable job than it is now. Veterinary service and other animal care fees would increase, making it even more difficult for farmers like me to care for their animals while trying to maintain profitability.

Question 6: The 2008 Farm Bill laid out provisions that addressed the most egregious practices in poultry and swine sectors of the livestock industry that have resulted from consolidation and vertical integration of the marketplace. Why is implementation of the GIPSA rule important to farmers and ranchers? Will the requirements outlined in the 2008 Farm Bill address the concerns of you as a grower? Has the delay in publishing the proposed rule had additional implications on your industry?

The proposed rule includes many commonsense measures that protect farmers, growers and ranchers from abusive and unfair treatment at the hands of the meatpackers and poultry companies. These safeguards include very common sense rules, including prohibitions against company retaliation against farmers for speaking out about problems within the livestock industry, joining other farmers to voice concerns to seek improvements, or raising concerns with federal officials. The fact that meatpackers and poultry companies can and do economically retaliate against farmers that exercise these legal rights is unacceptable.

While my farm is controlled through a cooperative, other hog producers might find themselves under imposing contracts that require them to make expensive facility investments or upgrades on their farms to meet their processor's requirements. These practices will be better regulated under the proposed GIPSA rule. The rule is also important to farmers like me because it includes the requirement that producers be provided with information necessary to make wise business decisions regarding their operations. Additionally, although it affects beef more than it affects a pork producer such as myself, the rule expressly ensures that meatpackers will be allowed to pay premium prices for premium livestock, but prohibit companies from unfairly offering select producers sweetheart deals while paying other producers less for the same quality, number, kind and delivery of livestock.

The GIPSA rule is likely to reduce litigation in the livestock industry. It provides clarity about the types of industry practices that USDA will consider unfair, unjustly discriminatory, or a granting of unreasonable preference or advantage. These are all terms used in the existing statute to prevent unfair trade practices, but these broad terms have never been defined in regulations.

More clarity will enable the agency to address unfair trade practices, which likely would further reduce litigation.

The longer that farmers and ranchers must wait for the final rule to be published, implemented and enforced leaves them exposed to unfair and uncompetitive livestock markets. After a loss of more than 90 percent of hog producers over the last 30 years, more than a year since the introduction of the GIPSA rule, and comments numbering in excess of 60,000, farmers and ranchers are ready for the publication of the final rule.

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Hans McPherson
June 28, 2010

Senator Debbie Stabenow

1) *EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?*

Yes - We have used it in water quality and planting trees, building fences, and making water gaps for cattle. We have also used it to improve pasture waters.

2) *What percentage of your feed ration are distiller's grains?*

None - The freight makes it cost-prohibitive to use. If you look at where livestock of all types are fed, it is usually in close proximity to bi-products.

3) *At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?*

I feel ethanol has a positive effect on ag in general. It has stabilized the corn and grain industry and as more ways of incorporating distillers into rations are found, the livestock feeding industry will benefit (research, research, research). For a long time for cattle to be profitable corn had to be cheap and when cattle were cheap, corn was high. Why not eliminate this cycle and let all ag make money?

4) *In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?*

Please call Dr. Dick Richardson at (406) 544-1113.

5) *If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?*

Why would you turn your back on research?

6) *The permanent disaster programs established in the 2008 Farm Bill helped provide livestock producers with assistance to producers suffering major losses due to natural disasters. How have these programs been received by producers in your state? What have your experiences been with these new programs in comparison to the ad hoc disaster programs you dealt with previously?*

In my experience with the local FSA Committee, and now the State FSA Committee, I have only 2 comments. First, the committees need some latitude to apply common sense (i.e. major blizzard traps a couple hundred head of cattle in 17 sections of Montana badlands. It may take months to find the carcasses huddled in a box canyon where they froze or suffocated under snow. Don't regulate us by saying we can't establish a cause of death). Secondly, if there is a disaster, advance some percentage of the anticipated payment ASAP. Many times it take 15 to 18 months before all of the paperwork can be completed and the people needed the help in the beginning.

7) *Mr. McPherson, you spoke at the hearing about how well CSP was working for you on your operation in Montana. Can you talk more specifically about why you decided to use the program, what you used the program to do (specific practices and conservation goals for your land), and the outcome of the activities you undertook using CSP?*

CSP allows us to make a profit without having to harvest every single blade of grass or stalk of grain from a farm. It feels good to leave something for the wildlife. It also allows us to be able to hire custom applicators for sprays and fertilizer that have more exact equipment and only apply what is needed. Most everything we are trying to do involves air quality, water quality, soil building and wildlife habitat enhancement.

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Gregory Parham, Administrator, Animal and Plant Health Inspection Service,
U.S. Department of Agriculture
June 28, 2011

Senator Debbie Stabenow

1) It is common for multiple agencies to partner with researchers in ARS to study ways to enhance food safety and animal health and develop new technologies that are applied in the regulatory system. As it relates to your specific mission, are you concerned that funding decreases will negatively impact your ability to ensure animal health or safe and wholesome meat and poultry products and what are the specific impacts of concern?

For the Animal and Plant Health Inspection Service (APHIS), ensuring animal health is at the core of what we do. I can assure you that, even in a tough budgetary climate, we will do what we must to keep our animals healthy, and to protect them from foreign animal diseases. In my written testimony, I explained some of the revisions we are making to our bovine tuberculosis and brucellosis programs; those are the kinds of changes we must make to ensure the effectiveness of our disease protection efforts, while making our programs more cost effective for the U.S. taxpayer. In both cases, we are confident we can achieve both goals without an increased risk of disease spread.

The Agriculture Research Service (ARS) manages research programs that provide critical scientific information and countermeasures that action and regulatory agencies such as APHIS, the Food Safety and Inspection Service (FSIS), and the Food and Drug Administration (FDA) depend on for protecting our Nation's food supply. The FY 2012 Budget actually proposed increases of over $50 million in high priority research such as food safety, human nutrition, sustainable agriculture, climate change adaptation and livestock and crop protection. The reductions in the Budget were for lower priority work, including earmarks and laboratory closures. We note that the earmarks that were proposed for elimination were subsequently enacted in the FY 2011 appropriation, and that the Senate Appropriations Committee accepted the FY 2012 laboratory closures. Reductions in animal health research will impact those research programs and impact our ability to solve problems of national priority, including safeguarding our livestock and poultry industries against transboundary diseases and the health of our animal resources and production systems.

2) Certain areas of the country are operating without reliable veterinary services that would help advance animal agriculture and ensure food safety. Can you tell me how the

Veterinary Services Investment Act will help address the demand for food animal veterinarians in the shortage areas identified by the USDA?

I appreciate your attention to this critical issue. Although USDA does not have a formal position on the proposed legislation, I believe that its end goal of increasing the number of veterinarians is a critical one. An educated work force is key to protecting both animal and human health. At USDA, whether it is in APHIS, FSIS, ARS, or other agencies that rely on veterinarians, we are working hard to reach out to veterinary schools and veterinary organizations to strengthen our ability to hire and fill vacancies in critical areas.

3) The current animal traceability system is waiting for clearance at OMB. Do you believe you currently have the resources on the ground to implement this system? Are there concerns that difficult budgetary situations in the states and at the federal level will impede the implementation of this program? Can you provide us with a timeline for implementation and when and how the system will be effectively utilized?

The animal disease traceability system we are developing will be a primary tool in our response to disease outbreaks. In addition, an effective traceability framework also facilitates disease surveillance and promotes trade. While budgetary issues are always a concern, we have funding in place for the initial stages of implementation. In FY 2011, we used funding primarily to maintain program support and on Information Technology infrastructure, which will serve as the backbone of the framework. The FY 2012 USDA budget request is an $8.85 million increase over the FY 2010 funding level, and would allow us to begin the next phase of implementation. That phase would include USDA's purchase of small identification tags. These low-cost, low-burden "brite" tags will be recognized as official identification, and we have committed to providing them to States and Tribal Nations at no cost. This will eliminate the need for them to come up with funding to implement that portion of the program, and is consistent with how we administer our other animal disease programs.

Additionally, we built upon the successes of previous efforts of animal disease traceability, and the systems we already have in place. For example, much of the previous system's IT infrastructure can be used. APHIS' current IT systems have data for nearly 40% of the estimated 1.4 million premises in the United States with livestock. Additionally, the Animal Identification System, which was developed to support the previous proposal, maintains records on the distribution of nearly 20 million official identification devices. It can be expanded to support further administration of the proposed system, should states decide to use it. We can, and will, build off our existing infrastructure, incorporating the data and systems we have in place as we design and implement this new, flexible approach.

APHIS published the proposed rule on August 11, 2011. We expect that the final rule will be published in 12-15 months.

4) As we are faced with needing to make difficult choices regarding federal spending, do you think we are better prepared today for a foreign animal disease outbreak than, say, four years ago? How do research dollars for animal disease research compare with those of plant-based research and what concerns does the difference between them raise, especially for the most significant threats to livestock production? What do you estimate is needed to fully meet U.S. animal research needs?

I do believe that we are substantially more prepared to respond effectively to a foreign animal disease today, than we were four years ago. We are always looking to strengthen our foreign animal disease programs, and I am quite confident that we have a robust set of programs in place to prevent foreign animal diseases from entering the country, but also to control them should a disease outbreak occur.

We have developed and documented coordinated response policies in the Foreign Animal Disease Preparedness and Response Plans. This and related guidance is made available to State and Local responders and other collaborators so that they can work with us to plan for potential outbreaks. We have conducted exercises with our State partners on the logistical operations of the National Veterinary Stockpile, and the diagnostic capacity of the National Animal Health Laboratory Network (NAHLN). APHIS in partnership with ARS has improved our diagnostic assays for early detection of Foot-and-Mouth Disease (FMD), Classical Swine Fever (CSF), Highly Pathogenic Avian Influenza, and virulent Newcastle Disease. In addition, rapid screening tests for African Swine Fever (ASF), Lumpy Skin Disease, Contagious Bovine Pleuropnemonia, and Rinderpest have been developed and are in the process of full validation for use in case of an introduction of those diseases. We also have increased the nation's testing capacity with deployment of high throughput equipment and testing protocols. Furthermore, our ability to respond to disease outbreaks has improved with inclusion of additional subtypes in the FMD vaccine bank, and a much larger corps of veterinary responders who could be federalized to respond to a disease outbreak.

ARS has successfully partnered with other federal agencies that have a stake in the success of our foreign animal diseases research programs resulting in additional resources to carry out programs of national priority. Examples include 1) the Department of State Biosecurity Engagement Program (BEP) that has provided funds to support key strategic international research collaborations to support Biosurveillance research programs in countries where biological threats reside and 2) the Department of Homeland Security who has provided ARS valuable funds to help advance the research and development of new countermeasures discovered by ARS scientists at the Plum island Animal Disease Center. While APHIS relies on the Agricultural Research Service to address its research needs related to animal diseases, APHIS does conduct limited diagnostic test development and evaluation for early detection and response tools. Current diagnostic tests and platforms are assessed against newer scientific information and equipment developments to determine how best to use available resources. USDA is able to conduct meaningful research into some critical areas that have improved animal health, and reduced the potential impact of zoonotic disease on human health within the resources we do have. We have developed better vaccines for some foreign animal diseases, and we will continue to test and refine them to the extent we can. Through our research efforts, we know more about avian influenza and other related diseases. We will continue building on what we have learned to improve animal health and to provide positive outcomes for human health.

5) What is the importance of the National Animal Health Lab Network in the event of an outbreak of a foreign medical disease such as Foot and Mouth Disease, Classical Swine Fever, Velogenic Viscerotropic Newcastle Disease, Pseudorabies Virus in a commercial swine herd, etc.?

The National Animal Health Lab Network (NAHLN) is a cooperative effort between two USDA agencies—APHIS and the National Institute of Food and Agriculture (NIFA)—and the American Association of Veterinary Laboratory Diagnosticians. It is a multifaceted network comprised of sets of laboratories that focus on different diseases, using common testing methods and software platforms to process diagnostic requests and share information. NAHLN has strategically combined the infrastructure and expertise in the State/University veterinary diagnostic laboratories and USDA and has established the animal health laboratory backbone of the United States for the early detection and emergency response and recovery program.

NAHLN is critical to our preparedness and thus focuses much of its work with partners on preparing to respond to outbreaks of foreign animal diseases such as foot and mouth disease (FMD) and Classical Swine Fever (CSF). NAHLN also plays a critical role in surveillance for diseases of importance to various animal industries such as Pseudorabies virus, swine influenza virus, and scrapie. An excellent example of the preparedness capabilities of the NAHLN is the recent pandemic H1N1 influenza. NAHLN laboratories already had been trained and proficiency tested in a rapid screening test for avian influenza (AI). In a very short period of time, the AI test was modified slightly and a test specific for the H1N1 virus was validated and deployed to the NAHLN laboratories. This allowed for rapid screening of swine influenza samples for early detection of pandemic H1N1 in swine herds.

At the Federal level, USDA's National Veterinary Services Laboratories (NVSL) serves as the national veterinary diagnostic reference and confirmatory laboratory. NVSL coordinates laboratory activities, leads diagnostic methods validation, and provides training, proficiency testing, materials, and standard operating procedures for diagnostic tests.

The State/University laboratories in the NAHLN perform routine diagnostic tests for endemic animal diseases as well as targeted surveillance and response testing capabilities and capacities for foreign animal diseases. State/University laboratories also participate in the development of new assay methodologies.

Networking these resources provides an extensive infrastructure of facilities, equipment, and personnel that are geographically accessible no matter where disease strikes. The laboratories have the capability and capacity to conduct nationwide surveillance testing for the early detection of an animal disease outbreak. They are able to test large numbers of samples rapidly during an outbreak and work is ongoing to increase the nation's capacity to conduct the high level of testing needed to demonstrate freedom from disease after eradication.

<u>Senator Max Baucus</u>

1) As USDA directs their focus and resources on high-risk areas for brucellosis it is imperative that the agency provide scientific expertise to inform the continued placement of *B. abortus* on the Biological Select Agent and Toxin list. The cost and complexity of complying with the biological select agent rules are discouraging the development of an effective oral vaccine for use in the Greater Yellowstone Area wildlife population. Has the USDA engaged in any risk assessments that would justify keeping *B. abortus* on the Biological Select Agent and Toxin list?

We recognize the challenges faced by researchers and others who work with large animals when meeting additional requirements associated with a pathogen designated as biosafety-level 3 or listed as a select agent. We also agree that robust research and development of biologic products are important components of brucellosis eradication efforts in livestock. However, we are also mindful that *B. abortus* remains a significant animal disease pathogen with the potential to pose a severe threat to animal and public health.

In determining whether an agent should be included on USDA's list of select agents, USDA considers a variety of factors, including:

- the effect of the agent on animal or plant health or products;
- the virulence of the agent and the methods by which it is transferred to animals or plants; and,
- the availability and effectiveness of medicines and vaccines to treat and prevent any illness caused by the agent.

Using these and other criteria, *B. abortus* has been on the select agent list since the list was originally promulgated in response to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. Accordingly, given the serious and persistent nature of this disease and the potential threat it poses to both animal and human health, USDA and its counterparts at CDC must give careful consideration to the consequences of removing *B. abortus* from the select agent list.

Additionally, the Federal Experts Security Advisory Panel (FESAP), made up of experts from 15 federal departments, agencies, and offices and for which I served as Co-Chair, recently reviewed a number of issues related to the Federal Select Agent Program. One aspect of this review was to determine which, if any, select agents should be recommended for removal from the Select Agent List. However, after this comprehensive review, the Panel did not recommend removal of *B. abortus*, while it did recommend removal of 25 other agents.

We continue our commitment to both conducting and supporting important brucellosis research. For example, USDA's Agricultural Research Service and laboratories associated with other institutions are conducting research involving *B. abortus* in wildlife and vaccine strains of brucella, which is not a select agent. We are hopeful that this research will help us eradicate brucellosis in U.S. livestock and prevent its reintroduction, especially by wildlife in the Greater Yellowstone Area.

2) On July 2, 2010, the President issued an Executive Order, "Optimizing the Security of Biological Select Agents and Toxins in the United States." This requires the formation of a Federal Experts Security Advisory Panel to make technical and substantive recommendations on Biological Select Agent and Toxin security to the Secretaries of Health and Human Services and Agriculture including consensus recommendations on the reduction in the number of agents on the Select Agent List. Could you please provide a summary of the status of the Panel's recommendations as it relates to Brucella and specifically *B. abortus*?

The Federal Experts Security Advisory Panel (FESAP) released its recommendations concerning the Select Agent Program on June 14, 2011. The report and other information are available at: http://www.phe.gov/Preparedness/legal/boards/fesap/Pages/default.aspx. As part of its charge, the FESAP determined which select agents should be recommended for removal from the Select Agent List. After this comprehensive review, the Panel recommended the removal of 25 select agents from the list; however this did not include removal of *B. abortus*.

In conducting its review, all 82 biological select agents and toxins on the Select Agent list were scored against 20 criteria by more than 60 subject matter experts representing the federal life sciences, public health, law enforcement, security, and intelligence communities. Six subgroups were established to focus specifically on human and overlap viruses, human and overlap bacteria and fungi, toxins, animal and overlap agents, plant agents, and intelligence/security/law enforcement. The general criteria for recommending removal of agents from the Select Agent list were low potential for causing mortality, endemicity in the United States (animal pathogens only), and difficulty in producing quantities necessary for a high consequence event.

Senator Richard D. Lugar

1) A little over a year ago, the Department presented the framework for a new approach to animal disease traceability. From what I understand, this new approach will allow each state or tribal nation decide what animal disease traceability system meets its particular needs. When will details on this framework be released? When do you expect this system to be implemented and in place?

   APHIS published the proposed rule on August 11, 2011. We expect that the final rule will be published in 12-15 months.

2) You discussed the importance of biosecurity and protecting our nation's food production system. I understand that the Animal and Plant Health Inspection Service (APHIS) owns two 4,000-lb/load alkaline tissue digesters, manufactured in Brownsburg, Indiana and currently housed at the National Veterinary Services Laboratory in Ames, Iowa. One of these digesters successfully operated for three years in Wisconsin, efficiently and environmentally disposing of 6,000,000 pounds of deer and elk afflicted with chronic wasting disease (CWD). I am concerned that as the federal government struggles to enhance the biosecurity of our nation's food production system, APHIS is underutilizing assets it already owns, and that some program staff may be unaware of this ownership, their record of accomplishment and the ongoing capabilities of these machines. Please apprise me of the following:
   a. The current operational status of these digester machines, i.e., how do they figure into USDA biosecurity/emergency disaster response plans?
   b. Has this technology been considered either by USDA or in cooperation with other agencies/departments as a means for enhancing ports and borders security?
   c. Is USDA staffed trained and available to operate these machines should a need arise?
   d. Any plans USDA has to take advantage of this technology in its animal disease mitigation and remediation efforts.

   APHIS originally purchased the two mobile alkaline digesters and a number of stationary alkaline digesters as part of larger bovine spongiform encephalopathy (BSE) preparedness efforts, prior to the first detection of the disease in the United States in December 2003. In the event of a BSE outbreak or outbreaks requiring animal depopulation, alkaline digesters provide a safe, biosecure means of carcass disposal when an alternative to incineration is needed. APHIS purchased the mobile digesters as prototypes, and fortunately did not need to use them in responding to BSE.

Operating under a Memorandum of Understanding with USDA, the Wisconsin Veterinary Diagnostic Laboratory (WVDL) did make good use of one of the mobile digesters from 2004 to 2007, disposing of deer and elk tissues and carcasses that were tested and depopulated due to the presence of chronic wasting disease (CWD) in the State. That unit was returned to APHIS in 2008, after WVDL purchased a more efficient, stationary alkaline digester. The other mobile digester has never been used. The California Animal Health and Food Safety Laboratory housed the machine for four years before returning it to APHIS in 2007. That machine is no longer operational, and USDA's National Veterinary Services Laboratories (NVSL)—which is storing the mobile digesters—has utilized parts from it to repair or replace parts on the facility's stationary digester. However, the mobile digester returned from Wisconsin is operational. An NVSL staff member is trained in its use and could quickly train others to operate it if necessary.

USDA would be willing to coordinate with other entities requesting the use of USDA's operational mobile digester to enhance port and border security, although such a request has not been made.

We want to note that while alkaline digestion provides a safe and useful way to dispose of carcasses infected with or exposed to BSE and other transmissible spongiform encephalopathies such as CWD, USDA does not presently have plans to use the operational mobile digester at U.S. ports or borders, or otherwise in disaster response or animal disease mitigation and remediation efforts. This is because if alkaline digesters are needed, stationary alkaline digesters which have appropriate operating and disposal permitting in place are more readily accessible now across the United States. Mobile digesters can only facilitate disposal of 5-8 cattle per machine per day even if running around the clock and therefore would only be a very small part of a solution to any large scale animal carcass disposal need. Additionally, the size and build of the mobile digester make transportation difficult, requiring permits (overweight, etc.) in certain States. Many State and local authorities also have significant testing and permitting requirements related to the land application or disposal of the organic components left after digestion; these requirements also limit the ability to respond quickly with a mobile digester. As an example, NVSL is not allowed to land-apply the digestate remaining in its stationary digester after processing. Although we presently do not have plans to use the operational mobile digester, I wish to emphasize that USDA can and will use it if a situation arises where it is the most viable and efficient option for carcass disposal.

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Rick Sietsema
June 28, 2010

Senator Debbie Stabenow

1) EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?

We have used EQIP for several manure storage facilities. These facilities were required per DEQ. They have a rule that rain water may not fall on stored poultry litter unless it is collected and managed for field application. Our turkey litter is dry and absorbs rain water. However, we did not have collection or management of rain water (even though it wasn't needed) so we had to roof the facilities and manage the drain and runoff water from the roofs. This sufficed for our CNMP and the DEQ. MDEQ then was willing to issue us a "no potential to discharge permit". Litter from the facilities will be delivered to our renewable energy gasification plant starting this winter. EQIP is a necessary part of any environmental program where the compliance target is continually moving.

2) What percentage of your feed ration are distiller's grains?

About 15%. Given a choice we would feed none, as the value of feeding it costs us significant damages in added feed conversion, days to maturity, lower quality meat in all species due to the oils in DDGs that cause soft fat and meat. Neither the packer nor consumer like the look or feel of "soft meat". With that said, here are some additional facts:

- 1- 56 lbs. bu. of quality corn produces:
    - 2.8 gal ethanol – of which ½ Million gallons were **exported** in 2010!!
    - 17 lbs DDGs – so we LOST 39 pounds of quality feed inputs from the original 56 lbs. bu. of corn.
    - And 17 lbs of CO2. If you have any concerns about the environment, this amount of CO2 release is 91 Billion pounds annually, 45 Million tons. That certainly isn't a part of a "greener agriculture"!!!
- It also consumes:
    - Natural gas
    - Fresh water – 3 gallons of fresh water that we're already in short supply of per gallon of ethanol!! With the 15 billion gallon mandate, that's 45 billion gallons of fresh water used annually. That's not something the Great Lakes State should be

promoting. The future results may be neighboring states suggesting they get a portion of Lake Michigan to accomplish this!!

3) At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?

We have been significantly impacted by the increasing price of all feed inputs. When one commodity increases in price and you begin to look at or utilize alternatives, the producer of the alternative grain or feed inputs increases their price to an economic threshold that just keeps their product slightly better to use. Additionally, when other processors like soybean crushers need to increase their bids for soybeans so farmers will plant beans as opposed to corn, the cost of soymeal increases significantly. This would all sound good for the farmer producing these commodities, but it isn't. I have historical data (paid invoices) that will show when grain prices increase, so does the cost of fertilizer and seed. When commodity prices came down some in 2009, so did fertilizer and seed. Additionally, land owners see increases in corn and beans, so they want 20-50% increases in their land rent. The typical grain farmer is working just as hard today for similar return as what they got when corn was $4 and beans $7. Currently our feed costs have doubled in the past 2 years, and the value of the livestock has increased just enough to cover this with little or no gain. The end result will be higher cost of proteins at the grocery shelf, with little or no affect on the cost of gas at the pump.

This is from the National Chicken Marketing Counsel's annual meeting:

"In the meantime, 38 percent of the nation's corn supply will have gone to ethanol by year's end, stifling profitability. Record-high feed costs as corn increasingly is converted to ethanol.

2011 will not see the record losses of 2008, but "definitely significant financial strain" for broiler producers, Scholer said."

We are currently trying to purchase wheat to feed our hogs as corn will not be available at a cost that can be afforded nor in sufficient supply in many areas we finish hogs. This is lifting the price of wheat to a new high and having to pit flour companies against livestock producers.

Below is another implication of increasing cost of inputs, more farm debt and higher cost to operate. This adds additional risk in planting a crop, as each acre planted has increased input cost. We are currently experiencing very high heat in the mid-west, and some farmers will likely loose significant yields from this. Their financial losses will be magnified by these higher input costs and additional debt. Note the comments about fertilizer and seed companies raising their prices to "take advantage of farmers" with these higher corn values, as well as the higher land rent/costs.

Farmers seek more loans as costs rise

Source: Dow Jones Newswire | Updated: July 18, 2011

U.S. agricultural lenders issued more operating loans in the second quarter versus a year ago as farmers grappled with rising fertilizer, fuel and feed costs, the Federal Reserve Bank of Kansas City said Friday.

Non-real-estate farm loan volumes jumped 14% in the second quarter from a year ago, the bank said. The average size of short-term operating loans jumped 36%, driven by the rising input costs.

Meanwhile, capital spending in the farm sector cooled, the bank said, leading to a drop in loan volumes for farm machinery and equipment. The volume of such loans "plunged from a first quarter spike" and were down 36% from a year ago, the bank said.

The bank's quarterly report is a compilation of national and regional agricultural finance data.

The report noted that agricultural bank profits were strong in the first quarter, but said a rise in delinquency rates could "hinder future profits."

Real estate farm loan delinquency rates, after dipping at the end of 2010, climbed to almost 3% during the first quarter. The bank also noted that the share of real estate loans 30 to 89 days past due also climbed, "setting the stage for rising delinquency rates in the coming months."

Farmers have enjoyed a surge in crop prices this year that has boosted profits and also sent farmland values soaring, with first quarter land prices jumping at least 20% in Iowa, Minnesota, Nebraska, Kansas and North Dakota.

However, the crop prices mean higher feed costs for livestock producers, and prices for crop inputs including fertilizer and seeds are climbing as companies seek to take advantage of farmers' higher profits.

The Kansas City Fed has warned that a sharp drop in crop prices or tightening of the Federal Reserve's monetary policy could lead to a significant drop in farmland values, although many analysts say there is no farmland bubble and that loan-to-asset ratios have remained low.

4) In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?

We utilize 2 vets that specialize in swine and poultry. There is an issue with obtaining local vet services. MSU has told us that most all their vet students are moving toward higher premium services like pets (dogs, cats, equine). Few have any interest in production agriculture, and why would they. Most don't come from any agricultural background anymore. They're 3 or more generations from the farm and have little interest. Your support in this area would be appreciated, but it would have to be specific to production agriculture and not overwhelmed by applicants that want to be urban/rural estate veterinarians.

5) If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?

The ability to produce a healthy animal for safe food production in a cost affordable method requires the periodic use of antimicrobials when necessary. The inability to use any of these types of products will likely create <u>more</u> of the same product being used to fight off or rid a disease situation that has overcome the livestock or poultry because the lower levels were not used to "prevent" such a disease break during a particularly stressed period of production. This has already been proven in the European Community. The loss of these items will surely cost the consumer more in their food budgets, as it will cost the producer more to produce it. This issue needs to be decided based upon the best available science, not some emotional issue by an animal rightist or niche food group.

6) Mr. Sietsema, having used both MAEAP and farm bill conservation programs, are there lessons that can be learned from MAEAP and applied on a federal level? Would you recommend MAEAP to others and why?

Michigan agriculture has worked in partnership with state, federal, academic and conservation partners to create the Michigan Agriculture Environmental Assurance Program or MAEAP. MAEAP is an industry led voluntary third party environmental "certainty" program for working lands on farms. After over 11 years of program development using federal and state standards, the program was codified into Michigan law in 2011. Nearly 1000 farms are MAEAP verified as determined by the Michigan Department of Agriculture and over 10,000 farms are in the process. Re-verification happens every three years. A specific initiative could be piloted in Michigan where a state developed environmental certainty program that meets specifications could be used to automatically enroll farmers in a next generation stewardship program that represents a partnership between state and federal government. In the absence of a special initiative, national farm policy could encourage other states to develop programs like MAEAP if funds were made available to states with MAEAP-like programs where farms working toward MAEAP verification could compete amongst each other for cost-share funds instead of competing statewide with farms that don't participate in MAEAP. By showing they are already concerned about environmental issues, they would get precedence to those that don't participate.

In addition to opportunities to encourage more Michigan farms become MAEAP verified, we suggest the following changes to existing or subsequent programs:

- Changes in working lands conservation programs to include farmers who are practicing good environmental stewardship on the land they cash rent.
- Funding for the Natural Resources Conservation Service (NRCS) and FSA cost-share programs. As Federal agencies like EPA continue to impose regulations on farms (taking the clean air act to agriculture, where congress never intended it to go!!!!), these cost-share programs should be available to farmers to offset regulatory mandates that result in public environmental benefits. The cost-share programs should not be capped by farm size or animal units.
- Expanding the current NRCS practice of providing 30% of conservation practice payments up front, to all farmers.
- Changes to federal programs to allow for the harvesting of filter strips in an effort to remove nutrients for near streams.

In a time when resources are stretched, reserve-type conservation programs should target the most highly environmentally sensitive areas. Conservation programs should be voluntary, provide compensation for lost acreage or production, and be implemented in a manner to achieve adequate program participation while minimizing the undue loss of productive farmland causing artificial inflation of local farmland/rental values and reduction of economic activity.

Just as resources should be targeted to environmentally sensitive areas, federal regulations that provide little to no environmental protection should not distract the environmental focus of farmers. Instead of developing spill prevention plans for fuel storage systems that rarely cause significant environmental impact, farmers should focus on nutrient management and soil protection on working lands. MAEAP has far more benefits to Michigan than regulations could ever impose. MAEAP is a balance approach the yields far more benefits environmentally, socially, and economically than any EPA or MDEQ regulation ever could.

I would and do support and encourage farms to participate in MAEAP. Thanks for this opportunity to expand on my testimony, answering your follow up questions.

Rick Sietsema

Sietsema Farms

Senate Committee on Agriculture, Nutrition & Forestry
The State of Livestock in America
Questions for the record
Mr. Michael Welch
June 28, 2010

Senator Debbie Stabenow

1) *EQIP is designed to help producers with regulatory certainty on their farms. Have you used this program yourself? Can you talk a bit about why you use it and how it works in conjunction with other conservation programs you may use and how they all work together to help you manage risk on your land?*

USDA's Environmental Quality Incentives Program (EQIP) is a program with a very good mission and intent. Harrison Poultry has not used the program because the company does not own any live production broiler farms. Some of Harrison Poultry's contract growers are eligible for the program and I understand have applied and have received assistance from USDA via EQIP to develop and implement nutrient management plans for their farms. Both animal agriculture and plant-based (crop) farms can participate in the program. However, the relative needs of animal agriculture far out-weigh those of crop farms, but the pro-rating of the funds by USDA does not reflect the relative needs. Also, the overall funding is somewhat limited and the application/approval process is time-consuming and cumbersome. I cannot address how EQIP dovetails with other conservation programs since each individual fa:rm would basically have a different situation. It would be my hope, of course, that USDA's National Resources and Conservation Service does work with individual farms and county/state officials to coordinate the overall conservation program and plans under their authority.

2) *What percentage of your feed ration are distiller's grains?*

Answer to question 2: Zero. Some people mistakenly think that DDGS are the same as corn. The nutritional differences require other costly ingredients, like calories from fat, to bring the nutrition back up. Only in America would we take the energy out of corn to make fuel then add energy back to the leftovers to make feed. You could cut out the costly middle process and go straight from animal fat to fuel?

We have tried DDGS but currently use none due to cost, quality concerns and logistics. There are large variations in nutrient content from plant to plant. Current pricing structure leaves little to no savings in feed cost. Maintaining a steady supply has also presented problems due to delivery issues.

3) *At the hearing and in your written testimonies, many of you raised significant concerns were raised about the ethanol industry and the impacts on the livestock industry. What have been the specific impacts on your individual operations since the increased production of ethanol?*

In October 2006 the second renewable fuels mandate became effective and the upward spiral in corn and related feed costs began. In October 2010 when USDA determined and published that corn supplies were going to be extremely tight that upward trend was exacerbated. The result has been for most, if not all, broiler companies much higher feed costs. At the same time broiler prices have stagnated or even declined. Few, if any, broiler companies are avoiding negative margins on their operations. From the fourth quarter of 2010 to the projected fourth quarter of 2011, the broiler industry has suffered one of its largest and deepest periods of financial losses. At least six broiler companies have succumbed to this cost/price squeeze. Although the industry is adjusting production in an attempt to better balance supply with demand, it remains to be seen if the current level of production adjustment will be sufficient to return companies to profitable positions. Another shortfall in the corn harvest this Fall will mean another round of corn price increases and another round of broiler production adjustments.

The federal government mandates how much ethanol will be produced which means the federal government mandates how much corn must be used to make ethanol. When there is not enough corn available to meet all needs at a reasonable price-level, the ethanol mandate must be allowed to take a "time-out."

4) *In 2011, the USDA has designated 218 veterinary shortage situations all across the United States – this is up from 187 in 2010. Congress has attempted to address the need for veterinary services by funding an incentive program called the Veterinary Medicine Loan Repayment Program for livestock and public health veterinarians to service these areas. Are you and/or your member producers experiencing other challenges with respect to access to veterinary care?*

We have experienced no shortage in Veterinary services for live chickens. We depend on the University of Georgia Poultry Diagnostic Research Center, Georgia Poultry Improvement Association Lab System and our Vendors for Veterinary services. These are veterinarians who specialize in poultry. However, as a related topic, The USDA FSIS has been experiencing shortages. Not just for IIC Veterinarians but also for inspectors under their charge. As recently as Friday July 1 we had to "drop shackles" and reduce normal slaughter for the day due to inspectors not reporting to work and not enough available substitutes. All of this while trying to fill Holiday demand.

5) *If animal agriculture were prohibited from using antimicrobials in food animals for growth promotion, feed efficiency and routine disease prevention, how would your respective industries be affected?*

The loss of use of antimicrobials would lead to lower quality product, higher production cost, and would contribute negatively to food safety and animal welfare. Scientific evidence backs up these statements. The European experience clearly shows that the loss of sub therapeutic antimicrobials has greatly increased the usage of therapeutic antimicrobials.

Senate Committee on Agriculture, Nutrition & Forestry
"The State of Livestock in America"
Questions for the record
David White
Chief, Natural Resources Conservation Service,
US Department of Agriculture
June 28, 2011

Senator Debbie Stabenow

1) Based on what NRCS hears from livestock producers around the country what are their most pressing conservation issues?

Response: Livestock producer issues fall in two areas, 1) concerns about current and proposed regulation in relation to remaining economically viable, and 2) the availability of technical and financial assistance to help them effectively address those regulations but also other resource concerns that may limit their capacity to produce their products effectively. The agency assists livestock producers to address regulatory issues through programs such as the Environmental Quality Incentives Program (EQIP), which has specific authority to help producers address these requirements. Using technical and financial assistance, these programs help producers develop comprehensive nutrient management plans (CNMPs), manage manure, install fencing, livestock watering facilities, and manage brush to address invasive species and promote plant health, while implementing prescribed grazing practices to address environmental concerns and maintain their economic viability. For example, during fiscal year 2011, NRCS made $500,000 in EQIP funds available to livestock producers in 11 Michigan counties to help prevent the spread of bovine tuberculosis. These funds are used to help implement conservation practices such as fencing, use-exclusion, watering facilities, and forage harvest management which help exclude deer from areas used by livestock. Without this assistance, these livestock producers may have had to use significant resources for prevention or treatment and also experienced livestock losses associated with this disease.

2) Chief White, at the hearing you mentioned there were now over 34 million acres enrolled in CSP and about half of those acres were under contract with producers raising livestock. How much of the total CSP enrolled acres to date are rangeland, pasture and pastured cropland? What are the corresponding total dollar amounts? What is the average payment rate nationwide for rangeland, pasture and pastured cropland?

Conservation Stewardship Program FY10 Rangeland, Pasture and Pastured Cropland				
Land Use	**Contracts**	**Acres**	**Total Obligations**	**Average Payment rate**
Pastureland	6,270	6,737,001	$125,919,360	$18.69
Rangeland	3,769	13,774,128	$152,051,805	$11.04
Pastured Cropland	997	873,040	$18,621,416	$21.33

- What are the top five conservation enhancements being chosen on rangeland, pasture and pastured cropland?

Conservation Stewardship Program
Top Five Conservation Enhancements for Rangeland

Code	Enhancement/Practice 2010	Total	% of Total	Range
WQL03	Rotation of supplement and feeding areas	5,666	7.18%	2,354
ANM18	Retrofit watering facility for wildlife escape	3,672	4.65%	1,987
PLT02	Monitor key grazing areas to improve grazing management	3,136	3.97%	1,515
ANM09	Grazing management to improve wildlife habitat	1,128	1.43%	711
ENR04	Recycle 100% of farm lubricants	5,623	7.12%	503

Conservation Stewardship Program
Top Five Conservation Enhancements for Pasture Land

Code	Enhancement/Practice 2010	Total	% of Total	Pasture
WQL03	Rotation of supplement and feeding areas	5,666	7.18%	3,198
ANM18	Retrofit watering facility for wildlife escape	3,672	4.65%	1,580
PLT02	Monitor key grazing areas to improve grazing management	3,136	3.97%	1,558
ENR04	Recycle 100% of farm lubricants	5,623	7.12%	1,123
ANM03	Incorporate native grasses and/or legumes into 15% or more of the forage base	1,050	1.33%	1,050

Pastured cropland is not presented as a subdivision as it is treated as part of the Pasture land use total.

- Please provide a state-by-state breakdown.

Conservation Stewardship Program
FY10 Average Payment Rate Per Acre By State

State	Average Payment Rate
Alabama	$11.71
Alaska	$7.28
Arizona	$4.87
Arkansas	$19.64
California	$8.29
Colorado	$9.29
Connecticut	$6.25
Delaware	$24.22
Florida	$18.63
Georgia	$28.87
Hawaii	$14.92
Idaho	$11.80
Illinois	$21.60
Indiana	$24.64
Iowa	$25.40
Kansas	$14.80
Kentucky	$14.95
Louisiana	$20.97
Maine	$7.51
Maryland	$30.60
Massachusetts	$7.94
Michigan	$20.34
Minnesota	$23.34
Mississippi	$25.49
Missouri	$16.96
Montana	$8.32
Nebraska	$10.97
Nevada	$12.59
New Hampshire	$13.60
New Jersey	$28.86
New Mexico	$3.66
New York	$20.60
North Carolina	$15.64
North Dakota	$15.22
Ohio	$23.58
Oklahoma	$14.22
Oregon	$8.98
Pennsylvania	$23.93
Rhode Island	$12.43
South Carolina	$12.88
South Dakota	$11.49
Tennessee	$15.29
Texas	$7.45
Utah	$5.77
Vermont	$13.85
Virginia	$22.56
Washington	$13.40
West Virginia	$10.63
Wisconsin	$18.47
Wyoming	$5.03
Puerto Rico	$27.24
Average	*$15.63*

- What is the CSP participation rate by species or enterprise (i.e., cow-calf, dairy, hogs, poultry, sheep, etc.)?

Conservation Stewardship Program FY 10
Participation Rate by Livestock Enterprise
Percent derived from total CSP contracts – 20,567

Livestock Species	Contracts	Percent Contracts
Beef	8533	41.49%
Dairy	1047	5.09%
Swine	264	1.28%
Sheep	147	0.71%
Horses	138	0.67%
Goats	77	0.37%
Poultry	76	0.37%
Other Livestock	56	0.27%
Bison	18	0.09%
Turkeys	16	0.08%
Deer	9	0.04%
Elk	8	0.04%
Fish	5	0.02%
Aquaculture	3	0.01%
Ratites	3	0.01%
Llamas	3	0.01%
Emu	2	0.01%
Mules	1	0.00%
Alpacas	1	0.00%

- How does CSP help provide participating members of the livestock industry achieve regulatory certainty and improve the long-term viability of their operations and the entire livestock industry?

The Conservation Stewardship Program (CSP) helps participating livestock producers meet regulatory requirements and improve the long-term viability of their operations. First, CSP serves as a valuable tool to help producers comply with local, State, and Federal regulatory requirements. Second, CSP helps producers address natural resource concerns in a manner that makes regulatory action unnecessary. To a great extent, both of these are achieved through the strong emphasis that CSP places on proper nutrient management and grass-based systems, such as year-round, rotational or managed grazing systems, that enhance productive livestock operations. Since animal agriculture is directly tied to soil, air, and water quality and NRCS sees direct conservation assistance to this sector as a critical part of its mission, CSP is a valuable tool in this regard.

3) Chief White, at the hearing you discussed the success of NRCS' Sage Grouse Initiative in 11-states in the Western U.S. Can you elaborate on the programs you used for that initiative, why and how those

programs were able to make the initiative a success, and provide a state-by-state breakdown of the programs and dollars utilized? Also, can you discuss the importance of easement programs and working lands programs, and how they worked hand-in-hand to help provide producers the certainty the needed to protect this important species?

Response: Wildlife conservation through sustainable ranching is the founding principle of NRCS' new and exciting Sage-Grouse Initiative (SGI). SGI uses financial assistance programs including the Environmental Quality Incentives Program (EQIP) and the Wildlife Habitat Incentives Program (WHIP) to accelerate implementation of conservation practices that reduce threats to sage-grouse while improving the sustainability of working ranches. In 2010, NRCS contracted with 223 SGI participants to implement improved grazing systems on almost 1,000 square miles of large and intact sagebrush habitats. Prescribed grazing systems improve hiding cover and we anticipate that sage-grouse nest success will increase by 8-10 percent while improving long-term rangeland health and productivity. Another 40,000 acres of encroached conifers are being removed; restoring habitat suitability for sage-grouse and securing the forage base for livestock. Accidental grouse mortality from fence collisions is being dramatically reduced by marking or moving 180 miles of 'high risk' fences near sage-grouse breeding sites. Estimates suggest that SGI fencing practices alone will prevent 800 - 1,000 sage-grouse fence strikes per year.

Our WHIP and EQIP efforts are yielding desired improvements to sage-grouse range, but habitat fragmentation continues to be the primary cause of bird decline, and the U.S. Fish and Wildlife Service has indicated that incorporating conservation easements into SGI's portfolio would complement with permanency the short duration of WHIP and EQIP contracts. In 2011, NRCS responded by funding conservation easements in those important places where sage-grouse numbers and fragmentation threats remain high. Easement programs used to date include our Farm and Ranch Lands Protection Program, Grassland Reserve Program, and Wetlands Reserve Program; each of which are designed to keep large and intact sagebrush grazing lands from being fragmented into small isolated parcels.

To further strengthen SGI and provide regulatory 'certainty 'for producers under the Endangered Species Act, NRCS and the U.S. Fish Wildlife Service completed a historic Conference Report at a regional scale that provides regulatory certainty to landowners on both private and public lands. As part of the Conference Report, which was completed in August 2010, NRCS and the Service identified a set of 40 conservation practices that will benefit sage-grouse. All conservation practice funds under SGI strictly adhere to the practices agreed to in the Report. If the sage-grouse is eventually listed as threatened or endangered under the Endangered Species Act, ranchers now have confidence that if they are implementing the appropriate SGI conservation practices, they will already be in full compliance with ESA. The conservation investments they are making today will help to sustain their business in the future even if the bird is listed.

Environmental Quality Incentives Program (See end notes.)
Sage Grouse Initiative Summary
Financial Assistance Obligated in FY10

State	**Financial Assistance Obligated**
California	$1,787,245
Colorado	$687,279
Idaho	$1,089,991
Montana	$2,275,679
Nevada	$1,136,303
North Dakota	$499,858
Oregon	$1,472,466
South Dakota	$557,042
Utah	$1,061,093
Washington	$2,507,912
Wyoming	$2,725,336
Total	$15,800,204

Source: NRCS Protracts 10 01 2010

Note: In addition EQIP Sage Grouse Initiative funds, Oregon used EQIP to fund 8 EQIP contracts ($451,107) to benefit Sage Grouse.

Wildlife Habitat Incentive Program
Sage Grouse Initiative Summary
Financial Assistance Obligated in FY10

State	**Financial Assistance Obligated**
California	$1,497,739
Colorado	$81,617
Idaho	$64,629
Montana	$622,399
Nevada	$575,577
North Dakota	$32,984
Oregon	$611,417
Utah	$20,179
Washington	$44,674
Wyoming	$264,990
Total	**$3,816,205**

Source: NRCS Protracts 10 01 2010

Senator Kent Conrad

1) NRCS has initiated a number of waterfowl habitat programs, including one in the Gulf during the Deepwater Horizon event, to establish habitat for migratory waterfowl. Is this, or a similar program, something that NRCS would consider offering to producers in the Devil's Lake region, one of the most important habitats in world for migratory waterfowl?

Response: The Natural Resource Conservation Service (NRCS) has a longstanding commitment to supporting wildlife habitat in the Devil's Lake Area and throughout the rest of the United States.

NRCS provides technical and financial assistance to promote, protect, restore, and enhance wetland and upland wildlife habitat through a variety of working lands and easement conservation programs. Specific programs include: Environmental Quality Incentives Program (EQIP); Wildlife Habitat Incentive Program (WHIP); Conservation Stewardship Program (CSP); Wetlands Reserve Program (WRP); and Grassland Reserve Program (GRP).

In addition to the general funding provided through these conservation programs, NRCS provides direct funding to address specific, identified resource-based needs. For example, the Migratory Bird Habitat Initiative (MBHI) was established in 2010 to enhance wetlands, increase habitat availability, and safeguard food resources for shorebirds, waterfowl and other birds that use habitat impacted by the Deepwater Horizon event in the Gulf of Mexico. The approach was extremely successful, enrolling more than 470,000 acres in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, and Texas, and assisting private landowners in providing wetland habitat at a critical time.

Building on early successes, the Migratory Bird Habitat Initiative was expanded to include the Northern Plains portions of the Mississippi and Central flyways in 2011. In consultation with Federal, State and local partners, NRCS determined that maintaining and enhancing wetlands and associated grassland habitats in the Northern Plains was crucial to ensuring the continued survival of important bird species.

The Northern Plains portion of the Migratory Bird Habitat Initiative (NP-MBHI) covers approximately 100,000 square miles and includes portions of Iowa, Minnesota, Montana, North Dakota, and South Dakota – including Devil's Lake. The region supports more than 50 percent of North America's migratory waterfowl, and over 300 bird species rely on the region during migrations; 177 for breeding and nesting, and another 130 for feeding and resting.

In 2011, NRCS has committed over $11.5 million in direct financial and technical assistance for the Northern Plains Migratory Bird Habitat Initiative. See table below for distribution by state and by program.

FY 2011 NRCS Northern Plains Migratory Bird Habitat Initiative Technical and Financial Assistance Allocations to States by Program

State	EQIP $	GRP $	WHIP $	WRP $	Totals $
Iowa	220,200	0	0	4,054,400	4,274,600
Minnesota	0	404,963	0	0	404,963
Montana	275,250	0	288,250	0	563,500
North Dakota	1,321,200	512,953	691,800	506,800	3,032,753
South Dakota	660,600	1,457,865	86,475	1,013,600	3,218,540
Total	2,477,250	2,375,780	1,066,525	5,574,800	11,494,355

In addition, NRCS has allocated $382,000 in 2011 for contribution agreements with partners to deploy Strategic Watershed Action Teams (SWAT) in North Dakota and South Dakota. Under the SWAT agreements, partners will provide 6 wildlife biologist staff year equivalents to accelerate the restoration and protection of private wetlands and riparian habitat, and to increase current outreach, implementation and monitoring efforts in the Northern Plains region.

2) Chief White, can you assure me that you will continue to work with my office and our producers as we develop the next Farm Bill to find more appropriate, timely and efficient ways to further address the loss of economic resources in the Prairie Pothole Region due to flooding?

Response: Yes. The Natural Resources Conservation Service (NRCS) is committed to continue working with Congress, producers, and partners to find efficient ways to further address the impacts of flooding in the Prairie Pothole Region. We have made major strides using new authorities and resources made possible through the 2008 Farm Bill. For example on June 8, 2011, NRCS announced a special $10 million initiative, to help producer in the region reduce flooding, restore wetlands and enhance wildlife habitat through the Wetlands Reserve Program. Also in 2011, NRCS has committed over $11.5 million in direct financial and technical assistance for the Northern Plains Migratory Bird Habitat Initiative. Both of these efforts have provided technical and financial help to producers to cope with the current flooding situation. We are also looking for new opportunities to increase economic benefits associated with flooded lands. I am open to further discussion with you and your staff to as Congress moves forward to develop the next Farm Bill.

3) As you know, the 2011 North Dakota floods are having a historic impact on our farmers and ranchers. In many cases, existing conservation structures and practices have been literally washed away or severely damaged. In other cases, recovery from the flood is going to require additional technical and programmatic assistance for our producers in

North Dakota. What programs and other capabilities does NRCS possess to help North Dakota producers recover from this historic flood?

Response: Conservation practices that have been installed using current NRCS conservation programs and were damaged will have the opportunity to be re-applied through the same program under which they were previously installed. A certain amount of program dollars are held back each year to address modifications and re-installation of damaged practices under existing program authorities.

The Emergency Watershed Protection (EWP) Program is also a potential opportunity, which is designed to respond to emergencies created by natural disasters. Working with local sponsors, EWP relieves imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences. NRCS in North Dakota has established EWP teams in the past to assess eligible storm events, and will again establish this type of team to assess any further storm events.

Senate Committee on Agriculture, Nutrition & Forestry
"The State of Livestock in America"
Questions for the record
US Department of Agriculture
June 28, 2011

Senator Debbie Stabenow

Secretary Vilsack recently requested comments in a *Federal Register* notice about reducing regulatory burden. How do you plan to use the comments received? Is the agency seeking other ways to reduce the regulatory burden while at the same time meeting industry and consumer expectations?

Response: Pursuant to President Obama's Executive Order 13563, Improving Regulation and Regulatory Review, USDA sought public comment on whether any existing program regulations or information collections should be modified, streamlined, clarified, or repealed. In response, we received comments from a number of stakeholders, including individuals, regulated entities, and trade groups. These comments will be used to help identify ways the Department can simplify and reduce the reporting burden for entry and access to USDA programs, while reducing its administrative and operating costs by sharing similar data across participating agencies. The intent is to minimize burdens on individuals, businesses and communities attempting to access programs that promote economic growth, create jobs, and protect the health and safety of the American people. USDA initially intends to focus on Rural Development, the Risk Management Agency, the Farm Service Agency, the Natural Resources Conservation Service, and the Food Safety and Inspection Service. As required by the Executive Order, our final plan will be released in August.

USDA agencies routinely review existing regulations on an ongoing basis. If regulations are found to need revision or rescissions, agencies initiate rulemaking actions. The results of these reviews are reflected in the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), published every spring and fall. The Agenda provides uniform reporting of data on regulatory and deregulatory activities under development by agencies within USDA in conformance with E.O. 12866 *Regulatory Planning and Review.*

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