

**HEARING TO REVIEW THE STATE OF THE
BEEF INDUSTRY**

HEARING
BEFORE THE
SUBCOMMITTEE ON
LIVESTOCK, DAIRY, AND POULTRY
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

APRIL 6, 2011

Serial No. 112-8



Printed for the use of the Committee on Agriculture
agriculture.house.gov

U.S. GOVERNMENT PRINTING OFFICE

66-068 PDF

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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HEARING TO REVIEW THE STATE OF THE BEEF INDUSTRY

WEDNESDAY, APRIL 6, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK, DAIRY, AND POULTRY,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 9:34 a.m., in Room 1300 of the Longworth House Office Building, Hon. Thomas J. Rooney [Chairman of the Subcommittee] presiding.

Members present: Representatives Rooney, Goodlatte, King, Neugebauer, Conaway, DesJarlais, Gibson, Cardoza, Scott, and Holden.

Staff present: Patricia Barr, John Goldberg, Tamara Hinton, John Konya, Debbie Smith, Pete Thomson, Michelle Weber, Nathan Fretz, Liz Friedlander, Mary Knigge, Robert L. Larew, and Jamie Mitchell.

OPENING STATEMENT OF HON. THOMAS J. ROONEY, A REPRESENTATIVE IN CONGRESS FROM FLORIDA

The CHAIRMAN. This hearing on the Subcommittee on Livestock, Dairy, and Poultry to review the state of the beef industry will come to order.

I would like to thank my Ranking Member, Mr. Cardoza, for working with us in preparing this hearing today. I would also like to welcome our witnesses and thank them for taking the time out of their busy lives to participate in this process. I would also like to thank Mr. Scott for joining us today, and I look forward to his comments and questions as well.

Today's hearing is structured to provide an overview of our nation's modern beef production sector. We have tried to span the range of this complex business in a brief hearing with three witnesses who represent a cow-calf operation in my home State of Florida, a family-owned 6,000 head feeding business in Nebraska, and a large beef packer headquartered in Kansas.

I learned an interesting fact recently. The United States domestic cattle herd represents seven percent of the global inventory while producing 20 percent of the global beef supply. Clearly, our constituents are doing amazing work in the beef sector.

Our witnesses have been asked to provide a description of the beef production system from their perspective, discuss the economic situation as they see it today, and list some of our public policy challenges. This hearing and those in the planning stages for other

sectors is intended to lay the foundation for the work of the Livestock, Dairy, and Poultry Subcommittee.

The animal agriculture industry is very complex, and the issues of importance are numerous. We hope these initial hearings will provide our Subcommittee with the frame of reference and perspective that will guide our work throughout this Congress.

As the session proceeds we will wade into more topics in greater detail, and I appreciate the interest and the input of my colleagues regarding these matters. I will continue to welcome and encourage everyone to offer suggestions as we move forward with our Subcommittee's agenda.

[The prepared statement of Mr. Rooney follows:]

PREPARED STATEMENT OF HON. THOMAS J. ROONEY, A REPRESENTATIVE IN
CONGRESS FROM FLORIDA

I would like to thank my Ranking Member, Mr. Cardoza, for working with us in preparing for this hearing today. I would also like to welcome our witnesses and thank them for taking time out of their busy lives to participate in this process.

Today's hearing is structured to provide an overview of our nation's modern beef production sector. We have tried to span the range of this complex business in a brief hearing with three witnesses, who represent a cow-calf operation in my home State of Florida; a family-owned, 6,000 head feeding business in Nebraska; and a large beef packer headquartered in Kansas.

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This hearing, and those in the planning stages for other sectors, is intended to lay the foundation for the work of the Livestock, Dairy, and Poultry Subcommittee. The animal agriculture industry is very complex and the issues of importance are numerous. We hope these initial hearings will provide our Subcommittee with a frame of reference and perspective that will guide our work throughout this Congress.

As the session proceeds, we will wade into more topics in greater detail. I appreciate the interest and input of my colleagues regarding these matters. I will continue to welcome and encourage everyone to offer suggestions as we move forward with our Subcommittee's agenda.

The CHAIRMAN. I would now like to recognize Ranking Member Cardoza for his opening statement.

**OPENING STATEMENT OF HON. DENNIS A. CARDOZA, A
REPRESENTATIVE IN CONGRESS FROM CALIFORNIA**

Mr. CARDOZA. Thank you, Mr. Chairman, and thank you for having this hearing today. Thank you to our witnesses for taking time out of your busy schedules and sharing with us your experiences in the industry.

If we watch the news and read the headlines, we would believe that all of agriculture is flying high these days. However, those of us who grew up in farming communities understand the inner workings of the industry and know that each commodity is different. That is why I am very happy to hold this hearing and participate in this hearing today to discuss beef production, the trends in the industry and the problems this Committee should focus on as we move forward.

In California, we have seen volatile prices and increased input costs. This trend is disturbing, but numbers alone do not tell the whole story. Through successful farm bill programs like EQIP and Water Conservation Fund, cattlemen in California and across the country have worked tremendously hard to conserve water, protect our land, and improve our air quality while also feeding the families of America and the world.

We as a Committee have a responsibility to promote policies that will keep the industries alive and thriving. A healthy beef industry not only puts affordable food on our table, it provides good jobs for our workers and strengthens national security by making us less dependent on other countries for our food supply. Nonetheless, in this tight budget climate we need to prioritize programs that are economically and efficiently working for our farmers. We need to focus our resources on initiatives that best help our cattlemen and the beef industry as a whole.

I look forward to hearing from our witnesses today about what is and what is not working. Thank you again for being here with us.

The CHAIRMAN. Thank you, Mr. Cardoza. The chair would request that other Members submit their opening statements for the record so the witnesses may begin their testimony and ensure that there is ample time for questions.

I would like to welcome our panel of witnesses to the table, and it is, from left to right, Mr. Jim Strickland, Owner of Strickland Ranch, on behalf of the Florida Cattlemen's Association, Myakka City, Florida; Ms. Anne Burkholder, Owner, Will Feed, Inc., on behalf of the National Cattlemen's Beef Association in Cozad, Nebraska; and Mr. Ken Bull, Vice President for Cattle Procurement, Cargill, Wichita, Kansas.

We will begin with Mr. Strickland. Mr. Strickland, please begin when you are ready.

STATEMENT OF JAMES A. "JIM" STRICKLAND, PRESIDENT, FLORIDA CATTLEMEN'S ASSOCIATION; MEMBER, NATIONAL CATTLEMEN'S BEEF ASSOCIATION; OWNER, STRICKLAND RANCH, MYAKKA CITY, FL

Mr. STRICKLAND. Good morning. Mr. Chairman and Ranking Member Cardoza, my name is Jim Strickland and I am President of the Florida Cattlemen's Association and I am pleased to be here with you.

I raise cattle as a family business, but being a small producer does not mean my business is simple. In addition to managing my herd, I must manage land, water, and other resources. I compete in foreign and domestic markets. Like all other producers, I have to care for the health of my cattle and deal with weather extremes. Additionally, because I focus on producing pedigree cattle, some sold for breeding rather than harvest, I also concern myself with genetics.

I care about the environment. My business depends on clean air, clean water, and clean country and healthy stock. Right now, the EPA is in the process of reviewing its National Ambient Air Quality Standards for coarse particulate matter, more commonly called dust. With their track record, EPA's promise of not regulating rural

dust gives us in rural America no comfort. Making this standard twice as strict will put entire regions of this nation's agriculture production in violation of the standard, at a time when we are supposed to be feeding a growing world population.

Preventing farming and ranching activities because we kick up too much dust goes against all logic. EPA's numeric nutrient criteria restrictions in my home State of Florida strike me and many others as being based on dubious background data and their impact on water quality is unproven.

One element is not debatable, and that is some farmers and ranchers will be forced off the land. Another challenge that I have in just keeping my operation whole, most of my worth is in land, land that is necessary to what I do to earn my living. It is not readily divisible and is far from liquid. If I sell off a chunk of my ranch for any reason, my economic model falls apart.

My son is in the Army and is in a combat zone as we speak. I do not know if he will stay in the Army or if he will choose to follow me into the cattle business or not, but I want him to have that option. In order to do that, a permanent end to the estate tax is required, but if you cannot find a way to do that, please find some kind of exemption for those of us that work the land.

Even with these challenges, there are still opportunities. I raise cattle, but my business is selling beef. Like most of my fellow ranchers and fellow competitors, I must be in tune with what the consumers want to see in the meat case at their local market. By recognizing the importance of consumer preferences, cattle producers have created innovative marketing programs, improved the quality of beef, and given the consumer what he or she wants. In the old days, all cattle in a pen were auctioned off for the same average price. Cattlemen had no incentive to produce a value-added product. Why invest to produce a higher quality steak when you receive no more for a quality steer than the next man gets for an animal of lesser quality?

Participating in marketing arrangements brings other benefits. Most importantly, we have the best price risk tools ever. The path from calf to porterhouse is strewn with opportunities to lose money. Forward contracting contracts permit me to shift some of the risk to others, but these opportunities are at risk due to the proposed GIPSA rule which I oppose. Under existing law, you must show that a packer or processor harmed the market by engaging in illegal actions such as collusion, price fixing, *et cetera*. This is known as showing competitive injury. Under the new definitions included in the proposed rule, competitive injury and the likelihood of competitive injury are redefined and made so broad that mere accusations without economic proof will suffice for USDA or an individual to bring a lawsuit against a buyer, packer, or processor.

Anyone who has ever raised a child or listened to schoolyard bickering knows that fair is an elastic term. The rules of eight U.S. circuit courts have upheld the need to show competitive injury to the market before you can sue. Do we want to throw out these? The best thing Congress can do to ensure a fair and competitive beef industry is use its oversight power to see that the laws on the books are uniformly and carefully enforced, and that is not the case today.

The failure of Eastern Livestock Company last fall left ranchers and livestock auction barns holding the bag on more than \$130 million in bad checks. Hundreds were affected, and several cattle operations may yet go under. This might have been avoided, had GIPSA been faithfully executing a statutory responsibility to audit and oversee the Eastern situation.

While it is an honor to be here today representing United States cattlemen and women, I would rather be home with my wife raising cattle. I appreciate your invitation. It is my duty to be here and give voice to these policy discussions, and I thank all of you for your service to our country, and for your time and consideration.

[The prepared statement of Mr. Strickland follows:]

PREPARED STATEMENT OF JAMES A. "JIM" STRICKLAND, PRESIDENT, FLORIDA CATTLEMEN'S ASSOCIATION; MEMBER, NATIONAL CATTLEMEN'S BEEF ASSOCIATION; OWNER, STRICKLAND RANCH, MYAKKA CITY, FL

Mr. Chairman, Ranking Member Cardoza, and Members of the Subcommittee, my name is Jim Strickland. I am President of the Florida Cattlemen's Association and am pleased to be with you today.

America's cattle producers range from giant operations to very small family ranches where producers raise cattle to supplement their income from a wage paying job. I raise cattle as a family business. I do a few other things but like the vast majority of other producers in the United States, I am a small producer.

However, let me be clear. Being a small producer does not mean my business is simple. In addition to managing my herd, I must manage land, water and other resources. I compete in foreign and domestic markets. Like all other producers, I have to care for the health of my cattle and deal with weather extremes. Additionally, because I focus on producing pedigreed cattle, some sold for breeding rather than slaughter, I also concern myself with genetics.

In addition to all of this, I spend a lot of my time thinking about government, laws, and regulation. I do not do this because I am a political philosopher but because government at all levels—in this country and abroad—has created a multitude of rules that affect the way I do business.

But I am not here to engage in a diatribe about "big government" or to push a partisan or ideological agenda.

I know enough American history, to know that many regulations are enacted for excellent reasons—healthier food products, cleaner water, fighting rapacious business practices and more. I know that business practices change and that new laws and regulations are sometimes needed to ward off new ills.

With these cautions voiced, I must say over the past century, we have seen far more regulations and laws added than taken off. We have learned that laws and regulations have unintended consequences and that they can introduce wasteful habits that benefit few and harm many.

With that off my chest, here are my personal views on some of the government-related issues I face in my business.

Conservation and the Environment

Let me begin by stating that cattlemen who knowingly and willfully violate the Clear Air and Clean Water Acts should be prosecuted. These criminals gain unfair advantage in their competition with honest producers and degrade life for all.

I care about the environment. My business depends on clean air, clean water, clean ground and healthy stock. I admire and respect the professionals at the Environmental Protection Agency (EPA). They have an extremely complicated job as they try to understand the nearly infinite interrelationships of the ecosystems upon which all of us depend. Even so, I think they often overreach on evidence that does not meet the test of clear and accepted scientific standards. Their actions damage producers without evidence of benefit to the environment or public well-being. The cumulative effect is to force agricultural producers out of the business with little corresponding benefit.

Right now, the EPA is in the process of reviewing its National Ambient Air Quality Standards for coarse particulate matter, more commonly called dust.

I would like to clear some things up related to the review of EPA's dust standard. First, EPA claims they are not and have no intention of regulating dust. Unfortunately, dust is already regulated under the current coarse particulate matter stand-

ard. Therefore they are already regulating farm dust but at a level that, while challenging, is manageable. Second, while EPA has not officially proposed a lower standard, farmers and ranchers can see the writing on the wall. Under the current “review” of the dust standard, EPA’s staff recommended to Administrator Lisa Jackson that she could either keep the standard the way it is, or make it twice as stringent. With their track record, EPA’s promise of not regulating rural dust gives us in rural America no comfort. Lastly, making this standard twice as strict will put entire regions of this nation’s agricultural production in violation of the standard. At a time when we are supposed to feed a growing world population, preventing farming and ranching activities because we kick up too much dust goes against all logic.

The total maximum daily load (TMDL) action surrounding the Chesapeake Bay and the numeric nutrient criteria restrictions in my home state of Florida strike me and many others as being based on dubious background data. Their impact on water quality is unproven. One element is not debatable, however, is that these actions will have severe, negative effects on production agriculture in the affected areas. Some farmers and ranchers will even be forced off the land. Taking some land out of agricultural production will eventually increase pressure to change land use regulations to permit more residential and industrial development around the shores of the Chesapeake and the beaches of Florida. The EPA says these water issues affect a limited area, but experience and intuition tell me that they are likely to spread to other watersheds across the country.

All of us, especially those in charge of protecting the environment, must recognize that human beings and civilization change the environment. Before Columbus, there were no cattle in this hemisphere. The Great Plains had never been plowed. No reasonable person wants to unwind these changes. Our challenge is to manage these changes with a reasoned, scientific approach that proceeds in a manner that affords adequate protections without destroying productivity.

Trade

International trade in cattle began long before the United States of America. The ancestors of the Devon Red cattle George Washington raised were imported to what became the United States about 100 years before he was born.

American cattlemen have always been strong believers in international trade. We support aggressive negotiating positions to open markets and to remove spurious “health regulations” and other trade barriers intended to keep our products out of foreign markets. As you are aware, we continue to fight to recover the market share we once had in many countries, including Korea, China and Japan. We ask that you continue to help us by ending pseudo-scientific trade barriers designed to exclude us from foreign markets. International trade is vital to the sustainability of the U.S. cattle industry. We must look to the 96 percent of the world population outside our borders as markets for our products. We applaud and encourage the Subcommittee’s continued oversight of the enforcement of any trade pact to which American agriculture is a party. And we ask that you fight to pass of the South Korea, Panama and Colombia trade agreements.

Research

Research in new production methods, nutrition and animal diseases is an important part of Federal agricultural policy. The U.S. Department of Agriculture’s (USDA) research is critical in all aspects of our business. The research and extension activities help identify new cattle production methods that make our business safer and more efficient. Animal health research aids in the control and eradication of animal diseases, prevents intrusion of foreign animal diseases and helps to preempt new diseases. These activities keep our national herd healthy and enhance the export of our beef and cattle. Nutrition research validates that lean beef plays a critical role in a well-balanced, nutrient-dense diet.

I want to emphasize the importance of USDA’s Agricultural Research Service (ARS) centers in all regions of the country. I was very dismayed recently to learn of the possible closure of the Sub-Tropical Agricultural Research Station in Brooksville, Fla., which is one of only three ARS Beef Cattle Research Stations in the country. The other two are located in Nebraska and Montana. The work of the Florida center cannot be replicated or replaced by the other two centers because of the vast differences in cattle genotypes, soil types and unique environments. The Brooksville center has the potential to impact nearly 1/3 of the beef cow population in the nation. It seems very unwise to shut down this important part of the national animal research infrastructure.

Additionally, I would reiterate that the collaborative research USDA’s ARS conducts cooperatively with the nation’s land grant universities is vital to the future of the cattle industry, the environment and safety of the food supply. The combina-

tion of research, teaching and extension must be maintained as America assumes a growing role in feeding a rapidly growing global population.

Energy

I live and die by the market. President John F. Kennedy once said agricultural producers are the only people in our country who “have to buy at retail, sell at wholesale and pay the freight both ways.”

That makes the economics of raising cattle a tough balancing act. However, what is already tough is made worse by a government’s thumb on the scale. I am speaking of laws and policies that subsidize corn-based ethanol production. When I buy a bushel of corn, I am competing against someone whose purchase is subsidized by my tax dollars.

I understand why soaring oil prices, dependable energy supplies, and other factors caused our national experiment with subsidizing ethanol. But 30+ years and more than \$30 billion of subsidies have failed to create a self-sustaining economic model for ethanol. After 30+ years of rising oil prices and increasing oil imports, we can say the experiment failed.

An August 2009 U.S. Government Accountability Office report titled “Biofuels—Potential Effects and Challenges of Required Increases in Production and Use” is evidence that the corn-based ethanol industry is mature and that the VEETC should be allowed to expire. According to the report, “the VEETC’s annual cost to the Treasury in forgone revenues could grow from \$4 billion in 2008 to nearly \$7 billion in 2015 for conventional corn starch ethanol.”

The USDA’s Economic Research Service release a report in 2008 that reported feed costs for livestock, poultry and dairy reached a record high of \$45.2 billion—an increase of more than \$7 billion over 2007 costs. Further, a September 2008 Congressional Research Service report stated that the dramatic increase in livestock production costs was attributed to feed. The cattle feeding sector has lost \$7 billion in equity from December 2007 to February 2010 because of high feed costs and economic factors that have negatively affected beef demand.

I have two specific requests on ethanol:

1. Let corn-based ethanol compete on the same terms I do. If ethanol producers can make money without a subsidy paid with my tax dollars, I will be happy for them.
2. Oppose the Volumetric Ethanol Excise Tax Credit (VEETC) and the tariff on imported ethanol.

Taxes

I know both sides of the estate tax debate. I do not claim to be comfortable with billionaires passing vast wealth through generations untold. But as a rancher, I have issues that do not apply to financiers, bankers, real estate magnates, oil producers or software geniuses.

Most of my worth is in land—land that is necessary to what I do to earn my living. It is not readily divisible and is far from liquid. I am not a land speculator and while I try to behave in a gentlemanly fashion, I am no gentleman farmer. If my heirs or I sell off a chunk of my ranch for any reason, my economic model falls apart.

My son is in the Army and is in a combat zone right now. I do not know if he will stay in the Army or if he will choose to follow me into the cattle business or not, but I want him to have that option.

A permanent end to the estate tax is the simplest way to resolve the matter, but if you cannot find a way to do that, please find some kind of exemption for land that is worked by its owners. According to USDA, the death tax is one of the leading causes of the breakup of multi-generational family operations. Agricultural production in America is heavily dependent on inheritance, but the death tax makes it difficult and in some cases impossible for a farmer or rancher to pass his land on to the next generation.

Transportation

A safe and efficient transportation system is an important component of cattle ranching in Florida and the rest of the East. We raise our cattle and then ship many of them to the feedlots in Kansas, Oklahoma and Texas. Of course, trucks and fuel to move them are part of our cost. To make things worse, the animals lose weight and “shrink” in transit. This is tough when you sell by the pound. We ask that you support an increase in trailer weights, with the addition of a third axle. We especially ask that you move to standardize these weight limits across state lines. The current patchwork requires circuitous routes as we move to our markets.

Marketing Issues

Beef producers embrace free markets. The cyclical ups and downs of the market can be harsh, but the system works. We remain steadfastly committed to a competitive market system.

Those who implement policies that set prices, underwrite inefficient production, or manipulate domestic supply and demand readily cite supposed benefits. But a review of economic history suggests that government distortions of the market far too often throw the economic balance wheels out of kilter.

Marketing cattle has grown very complex. Market factors from energy costs, consumer preferences, feed costs and many others have ended the old system of raising what you can and hoping for good prices when your animals hit the market. Most of the cattlemen who thought they were in the business of raising cattle and praying for decent prices have gone broke.

I raise cattle, but my business is selling beef. Like most of my fellow ranchers (and fellow competitors), I must be in tune with what the consumers want to see in the meat case at their local market. By recognizing the importance of consumer preferences, cattle producers have created innovative marketing programs, improved the quality of beef and given the consumer he or she wants. We have also become more profitable and efficient. Some of these innovations have come in the form of alternative marketing arrangements (AMAs) such as forward contracting, marketing alliances and packer ownership. These arrangements offer me a better opportunity to be compensated for the value I add to my animals.

In the old days, all cattle in a pen were auctioned for the same average price. Cattlemen had no incentive to produce higher quality beef. Why invest to produce a leaner steak when you receive no more for a quality steer than the next guy gets for a four-legged bundle of fat and gristle?

As our industry struggled through decreasing demand in the 1970s, 1980s and early 1990s, the government was not pushing us toward leaner, more consistent beef. Producers, including myself, began to overhaul our practices so we could produce high quality lean beef. I invested in genetics, management and herd health to meet the demand some of us had begun to recognize.

I paid for my investment by demanding a premium price for my premium product. Meeting this demand for a premium product has produced the current system of value-based marketing, a system with a multitude of premiums, discounts, grids, contracts, formulas, and alliances that have become commonplace in the beef industry. You recognize some of the many names given to premium products:

- Certified Angus Beef.
- U.S. Premium Beef, Ltd.
- Ranchers' Renaissance.
- Harris Ranch.

These are just a few of the innovative marketing programs available. Many of our country's ranchers have chosen to participate in one program or another in order to become more competitive in a market controlled by consumers. These arrangements are led by producers but driven by markets and consumers. There are many more, particularly in areas where producers are teaming with other segments of the industry to take advantage of national, regional, and even niche market opportunities ranging from breed or genetics programs to natural and organic production. Process and source-verified programs use electronic identification of animals and this, in turn, leads to efficient production of healthy animals yielding beef for which consumers are willingly paying a premium.

Participating in these marketing arrangements brings other benefits. Most importantly, we have the best price risk tools ever. Price or market risk is not avoidable. The path from calf to porterhouse is strewn with opportunities to lose money. Forward contracting permits me to shift some of the risk to others. In return for a guaranteed price, I forfeit some opportunity for outsized profits. I am happy to do it. If I know the price I am going to receive down the road, I can plan and operate more efficiently. Instead of fretting over what live cattle will be worth in several months, I can focus on day-to-day operations and herd improvement. Whoever buys my future delivery is protected against a spike in prices and the buyer too appreciates the stability. Furthermore, these contracts are voluntary. If I do not like the offering price, I can walk away and find another buyer, either now or later.

All these changes ease financial operations. Ranchers who need operating capital get a much friendlier reception from their banker when they can show evidence of a marketing plan and a firm price for their product.

These webs of marketing arrangements are sometimes complex, but they bring efficiency. Feedlots can report how cattle perform when being fed. Packers can report yield and quality. And I use this “actionable intelligence” to manage my herd.

This not smoke and mirrors. The benefits have been demonstrated. In 2007, USDA’s Grain Inspection Packers and Stockyards Administration’s (GIPSA) Livestock and Meat Marketing Agency released a government-funded, 3.5 year study based on more than 500,000 transactions representing more than 58 million head of cattle. According to the study, producers participate in alternative marketing arrangements to buy or sell higher quality cattle, improve supply chain management and obtain better prices.

The study demonstrates that a market-driven system works. The study’s overwhelming conclusion is that overall alternative marketing arrangements help all sectors of the industry.

Auction markets are also a critically important part of the U.S. cattle industry. They have been the primary arena for marketing cattle for more than 100 years. In this marketing method, a willing seller takes the highest bid for his cattle when he decides it is the right time to bring them to the auction barn. Ranchers who market this way cite several reasons for their choice. One reason is independence. By using the cash or spot market, producers have no restrictions or cattle quality concerns that would keep them from selling your cattle—unlike marketing arrangements that require certain criteria be met before cattle qualify for filling the contract. Flexibility is also important to these producers. Selling on the spot market gives ranchers the opportunity to participate in market rallies. Those who have already contracted their cattle lose that opportunity because they are locked into a price agreement.

Even with traditional means of marketing, we have seen innovations and improvements that have been market-driven. One of these innovations is video livestock auctions. With this method, ranchers can auction their animals by video and reach customers in other parts of the country and even in other countries. This style of spot market stemmed once again from ranchers who produce a higher quality product and want to make sure they are getting paid for the value they are adding to their cattle.

The GIPSA study concluded that reductions or restrictions on AMAs would cause a decrease in the supply of cattle, a decrease in the supply and quality of beef and an increase in retail beef prices.

Who needs that?

Given the results of this study, I have no idea why GIPSA is proposing its competition rule, which is a rule I oppose.

This rule goes beyond the intent of Congress in the 2008 Farm Bill and proposes major changes to the Packers and Stockyards Act (PSA) that will damage our ability to market cattle.

Under existing law, you must show that a packer or processor harmed the market by engaging in illegal actions such as collusion, price fixing, *etc.* This is known as showing “competitive injury.” Under the new definitions included in the proposed rule, “competitive injury” and “likelihood of competitive injury” are re-defined and made so broad that mere accusations, without economic proof, will suffice for USDA or an individual to bring a lawsuit against a buyer (packer or processor). In this case, a producer need only say that he was treated “unfairly” to sue a packer or processor. There is no definition of what “fair” should be. Anyone has ever raised a child or listened to school yard bickering knows that “fair” is an elastic term. The rulings of eight U.S. Circuit Courts have upheld the need to show competitive injury to the market before you can sue. Do we need to throw these well-defined rules out the window and watch for a decade or more as our courts attempt to sort out what “fair” means?

Under the proposed rule, order buyers will only be able to represent one packer. It is at quite possible that the loss of efficiency from requiring a single buyer for multiple packers will end up hurting producers like me. I do not envision packers flooding livestock barns with exclusive buyers. In fact, I see some barns having no buyers at all.

The best thing Congress can do to ensure a fair and competitive beef industry is to use its oversight power to see to it that the laws on the books are uniformly and carefully enforced.

That is not the case today.

The failure of Eastern Livestock Company last fall left ranchers and livestock auction barns holding the bag on more than \$130 million in bad checks. Hundreds were affected and several cattle operations may yet go under. This might have been avoided had GIPSA been faithfully executing its statutory responsibility to audit and oversee Eastern.

If we need legislative or regulatory action in the beef industry, it is a need to faithfully execute existing laws and regulations. If GIPSA and USDA need more money to enforce the PSA, I ask that you give to them. But please ensure they improve their current performance before letting them take on dubious new responsibilities and authorities.

As a member of the National Cattleman's Beef Association, I support NCBA's position in favor of a free market system with reasonable regulation. We trust the American ranchers' ability, adaptability and innovative skills over those of well-intentioned regulators.

Make no mistake. I rely on Federal regulators to ensure that the marketplace is free from monopolies, collusion, price fixing and other illegal activities. But I am worried that current plans will poke a stick in the wheels of commerce and destroy a productive system that has benefited everyone.

Like other business operators, cattle producers want access to business opportunities and higher profits. We believe we have them now and proposed regulations will reduce them. That is why I ask that you recall that for every agreement made by a packer; on the other side of the deal is an individual rancher or feeder who has decided that the agreement is in his or her best interest. That opportunity will help to continually improve their herd management, genetics and long-term profitability. The opportunity to engage in and benefit from new advances is good for the individual producer and good for the industry as we strive to supply the consumer with beef products they demand.

Conclusion

This is not fun for me. By temperament and practice, I would rather buy, sell and especially raise cattle than come here to testify. I have come here not in furtherance of some partisan or ideological agenda. I accepted your invitation because I thought it my duty to participate in public policy discussions and to give voice to the concerns I share with most of my fellow ranchers.

I thank you for your service to our country and for your time and attention.
I welcome any questions you might have.

The CHAIRMAN. Well, thank you for your service as well.
We will move on now to Ms. Burkholder. Go ahead.

STATEMENT OF ANNE G. BURKHOLDER, VICE CHAIRMAN, CATTLE HEALTH AND WELLBEING COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION; OWNER, WILL FEED, INC., COZAD, NE

Ms. BURKHOLDER. Good morning, Mr. Chairman, Ranking Member Cardoza. My name is Anne Burkholder. I am a cattle feeder from Cozad, Nebraska. I am an American, a wife, a mother, and a cattle feeder. I care for and raise animals that will be harvested to feed to my family, your family, and families all over the world.

I spent the majority of my life only being a consumer of beef. It is only in the last 14 years that I have been actively involved in the production of beef. I am a native of West Palm Beach, Florida, and like many of my fellow consumers, grew up with no direct ties to production agriculture. My husband and I met while studying at Dartmouth College, and following graduation, we returned to central Nebraska to be the third generation to work on his family's diversified farm. Shortly after our return to Nebraska, my father-in-law decided to sell the cattle feedyard. I asked him to keep it and to allow me the chance to learn how to manage it.

Today I am the proud owner and manager of Will Feed Incorporated, the feedyard that finishes approximately 5,500 cattle annually. The first week at the feedyard I learned an exceptionally important lesson: never to judge a group of people or an industry without gaining an educated understanding of exactly what you are judging. I may have had a degree from Dartmouth, but I didn't

know a thing about the cattle business. My father-in-law took a chance on me and allowed me to learn at the feedyard.

Living on a farm, caring for animals and growing food is something that is very difficult to understand from the outside looking in. It cannot only be learned from a textbook because Mother Nature is our single largest challenger, and she is very unpredictable.

I am in the business of caring for animals that raise beef, and my top two priorities are animal care and food safety. The feedyard that I manage today does not look the same as it did when it was built in the early 1970s. It is not managed the same way, either. Our farm continues to evolve in order to provide better care for our animals and a safe, high quality beef product for all consumers to enjoy, all while continuing to protect the environment.

Cattle producers are the first line of defense in protecting the land, the environment, our natural resources. Unfortunately, EPA is plowing down a path of burdensome regulations that do not have the science to support them. Current proposed coarse dust regulations, twice as strict, would put regions like mine in violation of the standard. More importantly, EPA's charge under the Clean Air Act is to protect public health, and there is no scientific evidence that farm or ag dust has adverse effects on public health.

Healthy cattle are not only the foundation of a safe food supply, but they are the foundation of the beef industry. To keep cattle healthy, producers utilize important tools like vaccines, antibiotics, good nutrition programs and herd management practices. Prevention of disease is a cornerstone in both animal and human medicine. This allows us to provide a higher quality of life to our cattle while keeping our food supply safe. We utilize a holistic care program at the feedyard which focuses on comprehensive animal health, and is based on the understanding of a prey animal, his thoughts and his behavior.

Cattlemen fully support an open, free, and competitive marketplace. Over the past 10 years, I have worked hard to develop a niche for my relatively small cattle feedyard. I have established relationships with a group of cow-calf producers who want to follow the performance of their calves from birth to harvest. For this to be economically feasible for both the cow-calf producer and me, the calves that we produce must be able to bring a premium over the commodity calf. In addition, it is necessary for me to have an alternative marketing arrangement that allows me to collect carcass data so that we can continually improve the cattle that we ship to harvest.

I participate in an AMA with U.S. Premium Beef and also work with certified Angus beef, as well as forward contracting. Many other cattlemen and I have made the choice to participate in a program that will offer us an opportunity for a larger share of the consumer's dollar, while managing market risk and volatility.

I adamantly oppose the proposed GIPSA rule for several reasons. Specifically, the rule bans packer-to-packer sales of livestock. This applies to individual packers and any affiliates or subsidiaries that they may own. Since I own stock in U.S. Premium Beef, am I then considered a packer? If so, then I would be limited to marketing all of my animals to U.S. Premium Beef and National Beef under this new rule. That takes away my freedom to market my cattle

as I choose. If marketing arrangements are greatly reduced, cattlemen like me are the losers.

In closing, my fellow cattle producers will continue to fight for a market-driven business climate that is free from government intrusion. Like I said a few moments ago, I learned early in my career as a cattle feeder not to judge a book by its cover. I am here to ask you all to do the same thing. Going forward, as you work with Federal agencies, I ask that you allow those of us with the firsthand knowledge of the industry to work with you to ensure a sustainable future for the U.S. cattle industry. Please, collaborate with me as I work to feed the world and pass my farm down to my children, the fourth generation.

Thank you.

[The prepared statement of Ms. Burkholder follows:]

PREPARED STATEMENT OF ANNE G. BURKHOLDER, VICE CHAIRMAN, CATTLE HEALTH AND WELLBEING COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION; OWNER, WILL FEED, INC., COZAD, NE

Mr. Chairman, Ranking Member Cardoza, and Members of the Subcommittee, my name is Anne Burkholder and I am a cattle feeder from Cozad, Nebraska. I am also the Vice Chair of the National Cattlemen's Beef Association's (NCBA) Cattle Health and Well Being Committee, the Chairman of the Nebraska Beef Quality Assurance Advisory Committee and the 2009 National Cattlemen's Beef Quality Assurance award winner. It is my pleasure to testify before your Committee to discuss the cattle feeding sector of the beef industry.

I am an American, a wife, a mother and a cattle feeder. I care for and raise animals that will be harvested to feed to my family, your family, and families around the world. I've spent the majority of my life only being a consumer of beef. It is in the last 14 years that I have played an active role in producing beef. I am a native of West Palm Beach, FL and, like many of my fellow consumers, grew up with no direct ties to production agriculture. My husband and I met while studying at Dartmouth College. Following graduation, we returned to central Nebraska to be the third generation to work on his family's diversified farm. My husband is an engineer by trade and a farmer by heart. Shortly after our return to the farm, my father-in-law decided to sell the cattle feedyard because my husband had no interest in running it. This is where I got my start in the beef industry. I asked him to keep the feedyard and allow me the chance to learn how to manage it. Today, I am the proud owner and manager of Will Feed, Inc., a feedyard that finishes approximately 5,500 head of cattle annually.

I arrived at the feedyard with bachelor's degree in psychology, an open mind and a solid work ethic instilled in me during years of athletic training in swimming and running. I had no working knowledge of how to care for animals or how to run a business. The first week at the feedyard, I learned an exceptionally important lesson: Never judge a group of people or an industry without gaining an educated understanding of what you are judging.

In the days and months to come, I learned how to care for and understand cattle; how to give vaccine injections and administer animal health products; how to "read bunks" and determine nutritionally what my animals needed; how to drive the feed truck; how to run a scoop shovel; and how to work as hard as my crew. I also witnessed how much pride my crew took in doing their jobs to the best of their abilities 365 days out of the year. I learned when you care for animals; your life and your world revolve around them. In the past 14 years, I've worked closely with my veterinarian and my ruminant nutritionist, and used my own background in psychology to build a "holistic animal care" program based on Beef Quality Assurance (BQA) practices. The BQA program was established in 1987, and sets forth principles and best management practices to use every day to ensure animals are given proper care and attention. BQA provides guidelines for livestock care and handling, nutrition and veterinary treatment and incorporates current EPA, FDA and USDA regulations as well as Hazard Analysis Critical Control Points (HACCP) principles. Today, the BQA program influences more than 90 percent of cattle in the United States. My incorporation of the BQA practices ensures that my animals are healthy and that the beef that they produce is of the highest quality. I have also built vertically collaborative relationships with my cow-calf producers in order to trace animal per-

formance from birth to harvest and work to continually improve the beef that our animals produce.

The U.S. cattle industry is truly a remarkable entity where a “one size fits all approach” does not work for our management practices and marketing plans. This type of approach prevents us from providing consumers with the choices they want and deserve. The simple fact is the diversity within our industry enables us to raise cattle in different regions of the United States, with diverse climates and natural resources, and still meet consumer demands. The diversity and efficiency of our industry allows us to provide beef products year-round to consumers. Could you imagine shopping at your local grocery store and not having your favorite beef variety available because it was out of its “growing” season?

Investments in research, science and technologies have created the foundation of modern beef production. Cattle spend the majority of their lives on a grass-based operation. Then, approximately 4–6 months before harvest, they enter a feedyard similar to mine. The feedyard structure allows our industry to efficiently use natural resources to finish cattle enabling us to deliver consistent, wholesome, safe, nutritious and affordable beef products to families around the world. My family’s diversified farm is sustainable and incredibly efficient. We utilize our farm ground to grow crops used for animal feed that we feed animals that produce both nutritious protein to feed to the human population and natural fertilizer to feed the soil. The cycle goes on year after year. Its success demonstrates that we are not only stewards of the land and excellent caretakers for our animals, but we are also instrumental in feeding the world.

The cattle business is the largest sector of our nation’s food and fiber industry. Our industry contributes approximately \$44 billion annually to the U.S. economy in farm gate receipts. According to the U.S. Department of Agriculture (USDA), there are approximately 766,350 cow herds and more than 90 percent of cow herds have fewer than 100 animals. Additionally, for the feeding sector of our industry, there are 142 feedyards (like mine) in the U.S. with 1,000 head capacity or greater.

America’s cattle producers are an innovative group of individuals and families who put the needs of their cattle before their own every single day. With the global population growing exponentially, the demand for high quality, safe, nutritious and affordable beef will continue to increase. The U.S. cattle industry is prepared to meet this opportunity as we continually look for ways to find efficiencies in our modern production system. Science is a critical component of the beef industry. Through science-based improvements in animal genetics, management practices, nutrition and health, beef production per cow has increased from 400 pounds of beef in the mid-1960s to 585 pounds of beef in 2005. This achievement is also noteworthy among our international trading partners as the United States has the largest productivity advantage in the world. The United States has seven percent of the world’s cattle population but we are able to produce 20 percent of the world’s beef production. Our closest competitor is Australia who has two percent of the world’s cattle population and four percent of the global beef production. The United States continues to outpace our international trading partners because we have invested in the research and science to find efficiencies within our modern production system. Cattlemen will continue to increase efficiencies based on science in order to produce high-quality beef using fewer resources. In addition, our industry continues to focus on our long-term efforts to improve our knowledge and ability to produce healthy cattle, which are the foundation of a safe food supply.

I’m in the business of caring for animals that produce beef. The knowledge that I’ve obtained was passed down from my father-in-law, and the professional consultants who bring new technology and science to my farm. The feedyard that I manage today does not look the same as when it was built in the early 1970’s. It is not managed the same way either. Our farm continues to evolve in order to provide better care for our animals and a safe, high quality beef product for consumers to enjoy, all while continuing to protect the environment.

Living on a farm, caring for animals and growing food is something that is very hard to understand from the outside looking inward. It cannot be learned only from a textbook because Mother Nature is our single largest challenge and she is very unpredictable. While I understand that some government regulatory oversight is necessary, it needs to be responsible and educated oversight that is based on sound science. And, I would like to see it be collaborative instead of combative in nature. I believe that if we take a moment to better understand each other, then we will realize that our goals are very similar and that we will be most effective in achieving those goals if we collaborate.

When cattle producers hear the words “government overreach” one of the agencies that comes to mind quickly is the Environmental Protection Agency. Regulations currently being proposed by this Administration are some of the beef industry’s big-

gest challenges. Cattle producers are the first line of defense in protecting the land, environment and natural resources. We are a livelihood that depends on the land to not only provide for our families but also our fellow Americans and consumers around the world. Cattlemen understand the need for science based environmental regulations that help protect our natural resources. Unfortunately, the EPA is plowing down a path of burdensome regulations that do not have the science to support its recommendations. The EPA is currently reviewing the standard for coarse particulate matter, commonly known as farm dust. A fact, and not a myth, is that one of the EPA's staff recommendations is to double the stringency of the current standard which will have a devastating economic impact on agriculture and rural areas. Regulations at levels twice the stringency would put entire regions, including my area, in violation of the standard. If EPA follows the staff recommendation, expensive mitigation measures would be required, including installing a million dollar sprinkler system at my feedyard. More importantly, EPA's charge under the Clean Air Act is to protect public health and there is no evidence that farm dust has an adverse impact on human health.

The Clean Water Act is another opportunity for the EPA to legislate through the regulatory process. As you know, in both the 110th and 111th Congresses, the Clean Water Restoration Act was introduced. This legislation would have expanded the jurisdiction of the EPA and the Corps of Engineers to virtually every body of water throughout the United States no matter the kind, size or shape of the water body. Fortunately, this legislation was never considered by the full House or Senate and cattlemen appreciate Congress realizing this bill was an extreme Federal power grab. However, it has recently come to our attention that the EPA is using a guidance document to expand its own jurisdiction based on the legislation that never became law. The guidance document is at the Office of Management and Budget and essentially allows EPA field staff to apply a number of approaches to make a jurisdictional determination. This is yet another example of the costly, overly burdensome regulations that are being disguised as "guidance," but history shows that this will be enforced as yet another regulation. These are just two current examples of government overreach by the EPA that will make it more challenging for those of us living in rural America to produce food for a growing global population.

In fall 2000, my feedyard was "inspected" by the EPA. The inspection began with one of the EPA agents holding out his badge and telling me that I was going to go to jail if I lied to them. This "combative" attitude was both unnecessary and offensive. I was operating my feedyard in compliance with the issued National Pollutant Discharge Elimination System (NPDES) permit, and had routinely had inspections performed by the Nebraska Department of Environmental Quality to ensure I was in compliance. Further into the inspection as we toured my feedyard, one of the EPA agents announced, "I've never been this close to a cow before!" He then proceeded to ask, "What are those mounds in the middle of all of your pens? Is that manure?" The mounds he was referring to were dirt mounds that make up the construction of our cattle pens in order to maximize cattle comfort during adverse weather conditions.

When you combine the combative nature of the agents with their apparent lack of knowledge about agriculture, you are left with ineffective, offensive and non-science based regulation. While my feedyard was not issued a penalty following the inspection, I was forced to submit further information directly to EPA for a lengthy period of time because they did not like my record-keeping system. One of the complaints regarding my record-keeping system was on my weather records because I was not writing down "zero" on the days that our facility received no precipitation. I was only marking down the rainfall on the days that we actually received precipitation.

Unfortunately, examples such as this one are not unusual and they are a source of great frustration and unnecessary stress to cattlemen. In fall 2010, I voluntarily constructed a new Livestock Waste Control Facility (LWCF) at my feedyard because I wanted to use new technology to protect the environment and improve the drainage of my cattle feedyard. I partnered with the Natural Resources Conservation Services (NRCS) office and used Environmental Quality Program Incentives (EQIP) funding to cost-share on the project. This cost-share plan allowed me to be able to afford to construct a new, lined, larger LWCF and is a great example of what we can achieve collaboratively to protect the environment. It is my opinion that tax dollars spent on collaborative projects such as these are the most effective way to continue to reduce the environmental footprint of CAFOs (Concentrated Animal Feeding Operations) like mine. It would be difficult to argue that the cost of the EPA inspection in 2000 that resulted in different record-keeping practices (writing down "zeros" on the days that it does not rain) had a positive impact on the environment. However, the cost-share dollars that allowed me to construct a new LWCF that will

protect ground water had a tremendously positive impact on my environmental footprint. The difference is regulatory combativeness *versus* regulatory collaboration.

Unfortunately, the current Administration has chosen to focus on emotionally based regulatory combativeness rather than science based regulatory collaboration. The far overreach of the Federal Government is becoming more and more of a commonality. The regulations coming out of Federal agencies like the EPA, the USDA and the Food and Drug Administration (FDA) continue to strain rural economies and family-owned operations like mine. Rural America is where our food is grown, and regulations that negatively impact rural areas force farmers and ranchers to leave agricultural production. This continues to be a growing trend and the cattle business is not an exception. Since 1987, nearly 300,000 producers have left the cattle business and we are now looking at the smallest cowherd since World War II. Our industry continues to feel the effects of burdensome regulations, drought, increased input costs, skyrocketing land values and struggling rural economies.

Animal health and well-being are top priorities for cattlemen across the country. My family is one of many, in the cattle business, that waits until after the cattle have been fed and taken care of to open our Christmas gifts. It's more than a responsibility; it's a commitment we have to the cattle to care for their needs. To keep cattle healthy producers utilize important tools like vaccines, antibiotics, good nutrition programs and herd management practices. Prevention of disease is a cornerstone in both animal and human medicine. In the feedyard, we continually monitor the cattle for any early signs that might indicate an animal is not at their peak performance. Just as important as prevention is the control and treatment of disease. This allows us to provide a higher quality of life to our cattle, while keeping the food supply safe. Working with my veterinarian and consulting ruminant nutritionist, I have put together a treatment protocol book at our feedyard with best management practices and protocols for everything that we do at the feedyard. From vaccination protocols, cattle handling techniques, "acclimation" protocols, feeding protocols, feedstuffs management, animal health product use protocols, euthanasia and non-ambulatory protocols and to biosecurity practices my treatment protocol book is the "bible" at the feedyard. It is based on BQA and the basic principle that healthy and well cared for cattle make healthy beef. We utilize a holistic care program at the feedyard, which focuses on comprehensive animal health and is based on an understanding of prey animal thought and behavior.

We understand what is important to our animals and we handle them accordingly in a way they can understand. We take care of our animals so they can maintain mental, emotional and physical fitness. While animal health products, such as antibiotics, play a role in the herd health management at my feedyard, they are only one component and are supplemented with many other tools and practices to ensure good health. For instance, we track vaccine history for each set of calves all of the way through the lifecycle to ensure each calf maintains a healthy and strong immune system. We also acclimate calves coming into the feedyard to give them extra exercise and help them to attribute comfort to their new home. Both of these management tools enable me to optimize the good health of my animals and limit the amount of antibiotics that are used at my feedyard. That being said, it is important to realize that as an animal caregiver and a grower of food, I need to be able to judiciously use antibiotics in order to ensure good animal welfare and food safety. If I were to lose the ability to judiciously use antibiotics, the result would be decreased animal welfare and health, which would be detrimental to the human food supply as healthy cattle are the foundation to safe and nutritious beef products.

Ongoing activist and media reports suggest the use of animal health products in animal agriculture is often inappropriate and that the use of these products is poorly controlled. Misleading statements like these have put an undue spotlight on animal health products and threaten to undermine the science-based approval process we have for these products. It is important to recognize that animal health products go through a rigorous, multiple-layer, science-based testing process before being approved for use. Additionally, all products approved by FDA for use in food producing animals must first pass significant human food safety benchmarks. Cattlemen are committed to animal health interventions focused on prevention of disease, control of disease pressure and therapy of animals with disease. Our industry believes the use of these products come with much responsibility and that is why we have worked together to create the BQA program as well. The success of programs such as BQA shows our industry's commitment to cattle health. This commitment cannot be overlooked by those who want to end or restrict the use of animal technologies without having any credible information to base their accusations.

With 96 percent of the world's consumers living outside of the United States, access to foreign markets for our beef products is vitally important for our industry to grow and our businesses to help revitalize rural America. Cattlemen have long

supported aggressive negotiating positions with our trading partners and all efforts to remove non-tariff trade barriers for our products. We fully support immediate passage of the South Korea, Panama and Colombia trade agreements and encourage Members of the Agriculture Committee to aggressively support the passage of all three agreements. Korea is the fourth largest export market and in 2010 accounted for more than \$500 million in sales. The current tariffs these three trading partners have on U.S. beef is the greatest hindrance to market access. Korea has a 40 percent tariff, Colombia's tariff is 80 percent and Panama has a 30 percent tariff. If our government does not take action to ratify these trade agreements we will continue to lose market share to our competitors like Australia. Additionally, we appreciate the Agriculture Committee's strong and vigilant oversight of the enforcement of our trade pacts that involve agriculture. We also want to thank the Committee for its investment in animal production research, which has provided a strong science foundation for governments and industry to rely on when negotiating trade agreements. We continue to recognize the critical role livestock production research has within our Federal agricultural policy. USDA's research is a cornerstone in every aspect of our business from animal health, food safety, animal and human nutrition, and with our international trading partners.

Cattlemen fully support an open, free and competitive marketplace. We know that the marketplace offers many adequate risk management tools and that it is not in our best interest for the government to create policies that set prices, underwrite inefficient production or manipulate domestic supply, demand, cost and/or price. Cattlemen are committed to energy independence. However; this commitment continues to create challenges for cattle producers. Corn-based ethanol production is significant to the cattle industry because of its direct impact on feed grain prices. From December 2007 to February 2010, the cattle feeding sector of the beef industry lost a record \$7 billion in equity due to high feed costs and economic factors that have negatively affected beef demand. Between 2005 and 2008, corn prices quadrupled, reaching a record high of more than \$8 a bushel. This volatility in the marketplace was a direct result of competing demands for corn and higher energy prices. For more than 30 years the U.S. ethanol industry has been subsidized by the American taxpayer at a cost of more than \$30 billion. In 2010, the U.S. ethanol industry realized record exports of E10 reaching 46 million gallons and distillers dried grains with solubles (DDGS), a co-product of U.S. ethanol production, reaching nearly 9 million metric tons. This is a mature industry and it is time to level the playing field for all users of corn. We are simply asking for the ability to compete on a level playing field for a bushel of corn.

Additionally, the market is a very powerful tool that allows beef producers to meet consumer needs, preferences and, most importantly, choice of beef products. This re-energized focus on consumer choice has enabled beef producers to create innovative marketing programs to meet this demand while enhancing their business models. We find ourselves in a value-added business that is driven by our consumers. Some of the innovative marketing tools that producers may willingly enter into are alternative marketing arrangements (AMAs) such as forward contracting, marketing alliances and packer ownership allow producers the opportunity to get paid for the value and investment they add to the animal.

Over the past 10 years, I have worked hard to develop a niche for my relatively small cattle feedyard. My management philosophy is based on quality and not quantity. I searched long and hard for a business model that will enable that to work for me. Because of my focus on high quality animal care and high quality beef, I have established relationships with a group of cow-calf producers who want to follow the performance of their calves from birth to harvest. For this to be economically feasible for both the cow-calf operator and me, the calves that we produce must bring a premium over a "commodity" calf. In other words, the additional value that we put into the animal that results in higher quality beef must be passed back to us so that we can continue to operate. In addition, it is necessary for me to have an AMA that allows me to collect carcass data on the cattle that I ship to harvest. Without the carcass data (the grade and yield information about the quality of the beef), I cannot supply my cow-calf operators with all the data they need in order to continually improve the genetics and management practices on their farms.

Historically, cattle were marketed in lots or pens with every animal in the lot receiving the same average price. Since producers did not benefit from providing higher quality beef, they had no incentive to supply a higher quality product or meet consumer demands. As our industry struggled through the 1970s, 1980s, and early 1990s with decreasing demand, we did not see any market driven signals to produce the leaner, more consistent beef consumers demanded. Many producers, like me took significant steps to produce high quality lean beef by making investments in genetics, management, and herd health to meet the demand we began to recognize.

To pay for this investment, producers demanded a premium. This demand for premiums has manifested today into a system of value-based marketing that is reflected in the multitude of premiums, discounts, grids, contracts, formulas, and alliances that are now commonplace in the beef industry. Some of the marketing programs that producers participate in are:

- Certified Angus Beef.
- U.S. Premium Beef, Ltd.
- Ranchers' Renaissance.
- Harris Ranch.
- Laura's Lean Beef.

These are just a handful of the innovative marketing programs available. I participate in an AMA with U.S. Premium Beef, Ltd and also work with Certified Angus Beef. Many other cattlemen and I have made the choice to participate in a program that will offer us an opportunity for a larger share of the consumer's dollar. These arrangements are market and consumer driven, and are all led by producers. There are many more, particularly in areas where producers are teaming with other segments of the industry to take advantage of national, regional and even niche market opportunities ranging from breed or genetics programs to natural and organic production. Process and source verified programs are utilizing today's technology, such as electronic identification of animals, allowing producers to become more efficient at raising high quality animals that yield the beef that consumers will pay a premium for.

There continues to be a growing number of innovators in the beef industry working together to create marketing strategies to ensure the viability of the beef industry. This group includes a variety of ranchers, feeders and packers working in a collaborative manner and you can see the success of this innovation in the meat case. Consumers not only demand leaner, tender and more consistent products, but they also demand convenience as well. The meat case is beginning to be filled more so by pre-prepared products and those ready for the microwave.

In addition to being responsive to our consumers, participation in these marketing arrangements provide producers with several tools to help improve their operations and herd management in an effort to capture the premiums I mentioned above. The ability to manage price risk is probably one of the most valuable of these tools. Taking advantage of marketing arrangements, such as forward contracting, allows producers to make a price that allows them to be profitable. If the price does not fit their needs, they can walk away and find another buyer. Being a "price maker" rather than a "price taker" puts ranchers in control of their business. Traditional routes of cattle marketing do not always offer that flexibility. Knowing that you have a guaranteed buyer and a price you can live with makes it easier to manage your day-to-day business and focus on operational improvements instead of always worrying where your money will come from.

Over the past 5 years, the volatility in the marketplace has become extreme. However, taking advantage of AMAs and the ability to forward contract is a marketing arrangement that enables me to stay in business. Without the ability to do this, my feedyard would not be financially viable. The benefits of alternative marketing arrangements are being seen every day in the cattle business and they were supported by the results of the Grain Inspection, Packers and Stockyards Administration's (GIPSA) Livestock and Meat Marketing study conducted by RTI International and released in February of 2007. This 3½ year study was funded by \$4.5 million taxpayer dollars and was billed as the "definitive answer" on these issues. The study supports what many ranchers across the country have known all along—a market-driven system works. This study was based on more than half a million transactions representing more than 58 million head of cattle. The overwhelming conclusion of this study is that overall, alternative marketing arrangements help all sectors of the industry.

The report states that the leading reasons producers participate in alternative marketing arrangements are the ability to buy or sell higher quality cattle, improve supply chain management and obtain better prices. All three of these tie into the topics we discussed above—higher quality cattle produce the beef products that the consumers demand. Providing this consumer preferred product allows us to capture more of that consumer dollar in the form of a premium. That bigger share of the consumer dollar is being passed down to the producer. The producer is getting a better price for their cattle and can use that money to continue to improve their operation and sustain it for future generations. The study concludes that reductions or restrictions on alternative marketing arrangements would cause a decrease in the supply of cattle, a decrease in the supply and quality of beef, and an increase in

retail beef prices. These are results that would set our industry back rather than move it forward. The study continues by concluding that feeder cattle prices would decrease because of higher operating costs resulting from restrictions on alternative marketing arrangements. That means that in the end, it is the individual cow-calf producers and feeders across this country who will bear the brunt of government restrictions. In a time of these additional costs and strains on the bottom line, the last thing we need to do is add more burdens to our ranchers and feeders.

When talking about improved supply management, we have to once again go back to the consumer. The consumer does not go into their local grocery store looking for Certified Angus Beef only on Tuesdays. The consumer demands that convenience any day of the week. To meet that demand, the retailer and packer need a steady and consistent supply of cattle that meet the qualifications of the store-branded program. This allows them to ensure this product is available daily. If the packer is limited in its ability to source these cattle, they cannot ensure that there will be a steady supply of cattle entering their processing plants. In turn, they cannot supply Certified Angus Beef every day and the consumer chooses another source of protein for the center of the plate.

For this reason, we oppose the proposed GIPSA competition rule. This rule goes far beyond the intent of Congress in the 2008 Farm Bill and proposes major changes to the Packers and Stockyards Act (PSA) that will negatively impact our ability to market cattle. Under existing law, you must show that a packer or processor harmed the market by engaging in illegal actions such as collusion, price fixing, *etc.* This is known as showing “competitive injury.” Under the new definitions included in the proposed rule, “competitive injury” and “likelihood of competitive injury” are redefined and made so broad that mere accusations, without economic proof, will suffice for USDA or an individual to bring a lawsuit against a buyer (packer or processor). In this case, a producer need only say that he/she was treated “unfairly” to sue a packer or processor. There is no definition of what “fair” should be, and the term is so broad that no definition could be applied in the instance of cattle marketing because each producer has his own perception of what is “fair.” Furthermore, this change contradicts the rulings of eight U.S. Circuit Courts of Appeals that have upheld the need to show competitive injury to the market before you can sue. This will be a bonanza for trial lawyers.

The proposed rule bans packer-to-packer sales of livestock. This applies to individual packers and any affiliates or subsidiaries they might own. First of all, if a packer selling to another packer has resulted in competitive injury to the marketplace, then GIPSA should penalize violators and enforce existing regulations of the PSA. Second, this will have severe unintended consequences, especially to smaller packers and dealers. Prohibiting packer-to-packer sales would encourage consolidation and displace producer livestock. For example, there is a beef packer located in the Pacific Northwest who also owns a feedlot in Southwest Kansas. Under this proposal, that company would be required to ship all of its Kansas feedlot cattle to Washington State for processing. Those cattle would displace the local cattle that typically supply that plant. The proposal would add inefficiencies for the feedlot through added transportation costs, which could result in the sale or liquidation of that feedlot, thereby driving consolidation and less competition. In addition, am I a packer because I own stock in U.S. Premium Beef? If so, then I would be limited to marketing all of my animals to U.S. Premium Beef/National Beef under the new rule. That takes away my freedom to market my cattle as I choose.

I also have concerns that the new liabilities associated with this proposed rule will likely cause buyers to withdraw marketing arrangements rather than run the risk of litigation, civil penalties, and potential revocation of their licenses. The threat of litigation by trial attorneys in regards to whether or not an arrangement is “fair” will reduce and inhibit the use of alternative marketing arrangements that put more money in producers’ pockets. If marketing arrangements are greatly reduced, cattlemen are the losers because it takes away their ability and incentive to manage risks, finance production and compete with one another to negotiate premiums. With alternative marketing arrangements being utilized by nearly 60 percent of the beef market, this will result in a huge shift in the way cattle are marketed. Even though the proposed rule does not directly ban the use of alternative marketing arrangements, the unintended consequences and the trickle-down effect will impact them.

The membership of NCBA has consistently said that we want access to business opportunities that will help us improve our bottom line. Accordingly, keep in mind that for every agreement made by a packer, there is an individual rancher or feeder on the other side of that transaction who has decided that the agreement is in their own best interest, and they should be allowed to conduct that business privately, just like any other industry. Those cattlemen have exercised their personal right to

willingly engage in that agreement because they perceive it to add value to their operation, to their business, to their livestock, and ultimately to their family. That opportunity in the end will help to continually improve their management, genetics, and long-term profitability. The opportunity to engage in and benefit from new advancements is good for the individual producer and good for the industry as we strive to supply the consumer with beef products they demand.

A recent experience with GIPSA has shown the agency is not doing a good job of enforcing the laws under its jurisdiction. The most effective way for industry and Congress to ensure that the marketplace stays fair and competitive is to ensure that the laws already on the books are readily enforced. The PSA was passed to ensure that the marketplace stays competitive. USDA's enforcement of PSA and other anti-trust laws and regulations are critical in identifying, investigating, and prosecuting anticompetitive actions by packers, dealers, markets, and others who fall under its jurisdiction. Last fall, the failure of Eastern Livestock Company left hundreds of cattle producers without payment for their cattle. Ranchers and livestock auction barns both were left holding the bag on more than \$130 million in bad checks. This has threatened the viability of several cattle operations. It is increasingly looking more like GIPSA was not providing the audits and oversight of Eastern as it is mandated by law to do—this lack of oversight contributed to the failure. Why is GIPSA proposing more rules when it seems they can't enforce the ones they have?

In closing, my fellow cattle producers will continue to fight for a market driven business climate that is free from government intrusion. The beef industry not only plays a significant role in the U.S. economy but also in rural America. We look forward to working with the Agriculture Committee to ensure that those of us in the beef business have the ability to do what we do best produce the world's safest, most nutritious, abundant and affordable beef products all the while giving consumer's the choice they deserve. Please collaborate with me as I work to feed the world and pass down my farm to my children, the fourth generation. Together we can sustain our country's excellence and prosperity. I appreciate the opportunity to visit with you today about a few of the issues impacting the feeding sector of the beef industry.

The CHAIRMAN. Thank you, Ms. Burkholder, and we will now move on to Mr. Bull.

**STATEMENT OF KENNETH BULL, VICE PRESIDENT FOR
CATTLE PROCUREMENT, CARGILL, WICHITA, KS**

Mr. BULL. Thank you for the opportunity to testify today. I am a 32 year veteran of Cargill's cattle feeding and processing operations. My family ranches land in Brady, Texas, that has been in our family for more than a century.

Cargill currently operates five fed cattle processing operations in the U.S. and two in Canada. We employ about 2,200 employees at each plant, and process around 25,000 head of cattle per day. A 4,500 head per day packing plant would cost around \$300 million to build, and \$75 million in annual working capital to operate. We typically invest about \$50 million in new capital every year, with most going toward food safety, environmental protection, employee safety, product technology, and serving our customers.

During the last 25 years, we have increased our carcass segregation system from just four sorts to 32 different grades and brands, and our product offerings have increased from 300 to over 3,800 in that same time, all in an effort to better serve our customers and to maximize the value for each and every part of the animal.

As cattle numbers tighten, the packing industry can face an overcapacity situation. The negative packing margins from 2004 to 2007 caused two large packing plants to close. Margins improved into 2010, but we now have the tightest cattle supply since 1950, and about a seven to ten percent overcapacity problem that will continue to grow as the herd declines.

The beef packing industry is one of the most heavily regulated industries in the world. We deal with USDA's FSIS, GIPSA, AMS, APHIS, FNS. We also deal with the FDA, the EPA, the DOJ and the FTC. We also work with Labor Department's Wage and Hour and OSHA agencies, and finally we work with Homeland Security's ICE and Customs agencies. That is 13 Federal agencies, not including state and local agencies.

There are some real growth opportunities out there for the beef industry, and then I want to talk a little bit about how government policy has us on the verge of squandering it. First, the opportunity. It is critical that we focus on three themes: quality and consistency, efficiency, and trade. All three of these things have a common link, a critical relationship between the rancher, the feeder, and the packer. In order to find success, we have to bring the links closer together, not further apart as some would like to see.

Quality and consistency mean the beef has to taste good and look good on the plate, that it is nutritious, and that we have been responsible in our food safety mission. In cooperation with ranchers and feeders, Cargill has developed a program called Rancher's Reserve. It is a brand of beef solution focused on genetics, management practices and processing practices to deliver a consistent eating experience.

Efficiency is all about having a system that from ranch to consumer is managing the ways it keeps beef affordable next to chicken and pork in the meat case. The cost to produce beef from the ranch to the packer continues to rise, and as costs rise, it is more important than ever that the segments of the beef industry work together to increase chain efficiencies.

Trade: Nowhere is trade expansion more critical than the beef business. We operate essentially a disassembly business, and profitability means finding the best, highest valued market for every individual part of the animal. Last week we pulled together a list of seven beef products that are not traditionally in high demand in North America, things like tongues and livers. The trade last week reported that these products were worth almost \$92 in the foreign markets. The same products, however, were only worth \$20 per head in the U.S. market. As global population approaches eight billion by 2020 and per capita GDP growth accelerates, there will be increased demand for protein, including beef. There is no better picture of this than in China, where meat consumption has grown by 600 percent per capita in the last 30 years. Since 1998, beef consumption has increased by 30 percent per capita in China. The challenge for the U.S. industry is can we capture that share for the beef industry?

I would like now to turn to what I believe is the single greatest policy threat in the U.S. livestock and meat sector in my 32 years in business. You have no doubt by now heard about regulations proposed by USDA that will establish strict new requirements in the marketing of livestock and poultry. While we do not have time today to get into specifics of the proposed rule, I would like to share that some of the concepts were applied in the State of Missouri in 2001, resulting in serious financial harm to producers and processors alike.

In summary, these are challenging times for the beef sector. There are avenues to better returns and industry growth, trade probably being the most important. There are some policy options that could take us in another direction. I hope we choose the former.

Thank you very much for your time.
[The prepared statement of Mr. Bull follows:]

PREPARED STATEMENT OF KENNETH BULL, VICE PRESIDENT FOR CATTLE
PROCUREMENT, CARGILL, WICHITA, KS

Thank you, Mr. Chairman and Mr. Cardoza for the opportunity to speak today about the state of the U.S. beef industry. By way of background, I personally am from a family that is in its third generation of ranching land outside of Brady, Texas that we have owned for more than a century. I have worked at Cargill for 32 years, all of it focused on various segments of the beef sector. I currently oversee the procurement of the cattle for our fed cattle operations.

Background on Packing Industry

Cargill currently operates five fed cattle beef processing operations in the U.S. and two in Canada. In the U.S., we employ about 12,000 people who process about 25,000 head of cattle daily in order to serve consumers around the world.

Our facilities average about 2,200 employees—each responsible for ensuring safe food. We operate three shifts, two for production and one for sanitation and equipment maintenance. Each facility is divided into four parts: animal handling; harvest; fabrication; and shipping. All of our plants are located in small, rural communities.

Beef processing is a capital intensive business. A beef plant that accommodates 4,500 of cattle daily would cost about \$300 million to build today, and would require about \$75 million in annual working capital to operate. We typically invest approximately \$50 million in new capital in our beef business every year, with most going toward food safety innovations, environmental protection, employee safety, product technology, and serving our customers. As you might imagine, the financial barrier to entry is huge, and simply keeping plants operating in a time of increasingly tight cattle supplies only compounds the problem.

This is a complex business. During the last 25 years, we have increased our carcass segregation system from just four sorts to today's 32 different grades and brands, and our product offerings have increased from 300 to 3,800, all in an effort to better serve our customers and to maximize the value for each and every part of the animal.

Due to high fixed costs, beef processing margins are tightly linked to our ability to process as many cattle as possible for maximum utilization. Of course this is tied to the supply of cattle available to process. As cattle numbers tighten, as they have been over the last several decades the packing industry often faces an over capacity situation. The negative packing margins from 2004 to 2007 caused two large packing plants to close. With the ensuing "right sizing" of capacity, margins improved until mid-2010. But we're headed back in the same direction. The tightest cattle supply since 1950 now leaves us with about a 7% to 10% over capacity problem that will continue to grow as herds decline.

Additionally, the rising costs to produce beef come from the critical inputs along the beef chain; grain and energy, labor and increased regulatory costs are taking their toll. I am highlighting the costs and the regulatory points because they have huge influences on the structure, evolution, and health of the industry as well as its ability to compete on a global basis.

The beef packing industry is one of the most heavily regulated industries in the world. My colleagues and I deal with USDA's FSIS, GIPSA, AMS, APHIS, FNS; the FDA, EPA, DOJ, and FTC; we also work with the Labor Department's Wage and Hour and OSHA agencies; we work with Homeland Security's ICE and Customs agencies. That's 13 agencies—not including state and local agencies. So naturally with this kind of oversight—as valuable as much of it is—we nonetheless have an environment of additional financial stresses.

Opportunity

There are some real growth opportunities out there for the beef industry, and then I want to talk a little bit about how government policy has us on the verge of squandering it.

First—the opportunity. It is critical that we focus on three themes: quality and consistency, efficiency, and trade.

All three of these themes have a common link—it is the critical relationship between the rancher, feeder, and the packer. In order to find success, we have to bring the links closer together, not farther apart as some would like to see.

Quality and Consistency: Quality and consistency mean that beef has to taste good and look good on a plate; that it is nutritious; and that consumers can trust that we have been responsible in our food safety mission. In cooperation with ranchers and feeders, Cargill has developed a program called “Ranchers Reserve.” The program is all about raising certain kind of cattle in a certain kind of way, on a certain kind of diet, and processing them with a certain kind of technology so that they can fit into a higher value branded beef program with certain kinds of parameters. This program has been very successful, even lauded in two Harvard Business Review studies as an example of increasing efficiency to produce beef while providing a branded beef solution. This kind of producer partnership has enabled us to serve some major retailers with nearly 100 percent of their beef case. This is the kind of innovation that will deliver future success.

Efficiency: Efficiency is all about having a system that from ranch to consumer is managed in ways that keep beef affordable next to chicken and pork in the meat case. As discussed earlier the cost to produce beef from the ranch through the packer continues to rise. As costs rise it is more important than ever that the segments of the beef industry work together to increase chain efficiencies. As noted earlier—the declining calf herd is maybe the most critical enemy of efficiency we face today.

Trade: Nowhere is trade expansion more critical than with beef. And it always amazes me that some in our industry are against more open trade. We operate essentially a disassembly business. And profitability means finding the best, highest value market for every individual part of the animal. To illustrate the case, last week we pulled together a list of seven beef products that are not traditionally in high demand in North America—things like tongue and liver. The market prices last week said that all combined, the products were worth \$91.65 per head in export markets. The same products were worth \$28.39 per head in the North American market. We can show this example over and over.

As global population approaches eight billion by 2020, and per capita GDP growth accelerates, there will be increased demand for protein including beef. There’s no better picture of this than China where meat consumption has grown by 600 percent per capita in the last 30 years. Since 1998 beef consumption has increased 30 percent per capita.

The challenge is for the U.S. to win the business—and that is not at all a certainty. Brazil’s herd is now double that of the U.S. But the U.S. has until about 2004 maintained a production edge because of its higher carcass weights, but that is now at par with South America. While Brazil’s production numbers are growing, North America is in a flat holding pattern, to slightly declining. While the U.S. was locked out of many of our foreign markets after the BSE situation, Brazil was able to win a lot of new export business—and it is hard to regain lost ground. Our challenge today is whether the beef industry will have the opportunity to capture this growing global demand for protein—and the only way to do it is to grow market access through free trade agreements.

A Critical Challenge

I would like to now turn to what I believe to be the single greatest policy threat to the U.S. livestock and meat sector in my 32 years in the business. You have no doubt by now heard about regulations proposed by USDA that would establish strict new requirements in the marketing of livestock and poultry. One of the most critical is a concept that would make it easier for parties to sue packers for price discrimination and jury-awarded damages in Federal courts. This exact proposal has been ruled against by eight different Federal appellate courts, and even considered for hearing by the Supreme Court—and rejected. Any final rule that includes these provisions will be beyond chilling in the marketplace.

This same kind of law passed in the State of Missouri in the spring of 1999. Implemented May 29, 2001, the impact on producers was immediate and severe as packers overnight shifted to purchasing on only the most basic formulas—rather than value-added or premium programs. The law remained in effect for 4 short months until the legislature repealed it in a special legislative session. Some of the implications of the GIPSA proposal are virtually identical to the provisions of the Missouri law.

We have extrapolated from a study done by Dr. Ron Plain at the University of Missouri, the impact of this law on a U.S. national basis.

Swine: During the implementation of the law in Missouri market hog prices dropped by 4.4%. The total cost to Missouri swine producers for the time the law was in effect was roughly \$2.7 million for the 5 month period. If we use only a 2% impact on a nation-wide basis, the result would be an impact of \$424 million annually for pork producers.

Cattle: In Missouri there was a 2% negative impact on cattle prices. When applied to today's cattle supply the 2% discount represents an annual loss for cattle producers of \$840 million.

Altogether, total losses for U.S. market hog and cattle producers alone should be expected to be at least \$1.264 billion per year. This does not include losses that would be suffered by our brands.

As I said, this is the single greatest policy threat I have seen in my career.

Closing

In summary, these are challenging times in the beef sector. There are avenues to better returns and industry growth—trade being the most important, and there are some policy options that take us in another direction. I hope it will be the former.

The CHAIRMAN. Thank you, Mr. Bull. I will now move on to questions. The chair would like to remind Members that they will be recognized for questioning in order of seniority for Members who were here at the start of the hearing. After that, Members will be recognized in the order of their arrival. I appreciate Members understanding.

I have a couple of questions I will direct specifically, but then if anybody wants to jump in after the first answer, feel free.

Mr. Strickland, first of all thank you and your son for his service in the Army. As a former Army guy, I am especially appreciative. I would like to ask you a little bit more about GIPSA, and certainly the other two witnesses can jump in. I know you touched on it in your opening statement, but I wanted to try to get a little bit more in the weeds, if we could, because some have tried to characterize the debate with GIPSA in the proposed rule on livestock markets producers *versus* packers. I sense that the discussion is more complex than that. Can you delve into that? What is your view?

Mr. STRICKLAND. Yes, sir, I can. I think it is appropriate that you perhaps started at this end of the table, because I am the one that makes those decisions at the very onset that I sit around my kitchen table, if you will, with my family. We decide what genetics we can afford to buy to better accommodate the market and all the niche markets and all the opportunities that there are, to try to capture that largest piece of that market. In doing so, if I go out and I buy better bulls that will—from Mrs. Burkholder that will ultimately go to the packer, then I ought to be certainly financially given precedence over the other fellows that maybe has the same weight calves, but doesn't do the things that I do, that they are not going to be more efficient for both of them. Also if I decide to go into animal ID as a marketing tool, I don't want to be mandated to go into electronic identification or mandatory ID, but I want to use that as a management tool.

Also if I put into practices there on the ranch that are BQA certified and use best management practices on the ranch also and bring a product forward, I need to be compensated for all the decisions and all the work that we do. Once they leave our farm, a lot of times they will leave—the contract will be done months before they leave so if they leave in August and September, I have already forward contracted a certain amount of my calves to hedge

my bet on the futures markets. That is why I do not believe in the GIPSA rule.

The CHAIRMAN. Thank you.

Ms. BURKHOLDER. I would like to answer that as well. The beef industry is very unique because a calf may travel through several different producers' hands before it becomes beef, yet we are all in the beef industry. And so even though we are not vertically integrated, we must be vertically collaborative, and AMAs play a very large role in that collaboration.

Over the past 10 years, I have tried really hard to find a business model or a niche to make my feedyard special, to make it economically viable, and to accomplish the goals that I wanted to accomplish. I focus on quality and I don't focus on quantity. I have worked really hard to find cow-calf producers that want to trace their calves from birth to harvest so we can look at the efficiency and the productivity of that calf from the time that they are born to the time that they hit your plate.

In order for that collaboration to work, we need to be able to have marketing arrangements so that I know when I go out and I work with my cow-calf operators, that I can pass extra money back to them, like Mr. Strickland spoke of. This way they can continue to do the best thing on the ranch, continue to increase the viability and the very positive natures of genetics that they play with all the time. And then I also need to know that that animal can perform for me in the feedyard and then on into the packing plant, because we are all in the beef industry.

So I believe it is very important that we are vertically collaborative as an industry, and what bothers me the most about GIPSA is it shoots a bullet right in the middle of that collaboration, because it takes away the AMA's that we need in order to manage risk and manage the business side of our operations, while also doing the right thing for both our calves and the consumer.

The CHAIRMAN. Mr. Bull, do you want to add anything?

Mr. BULL. No, I think they covered it very well. I think it is clear, if you look at all of the economic impact studies that have been done. You know, a large portion of the potential damages fall to the producers, and that is because the potential benefits of increasing demand that all of these new brands and new marketing alternatives have brought to the table, pass those benefits back. And so they are—really the lifeblood of the industry is how do we increase demand?

The CHAIRMAN. Thank you, and thanks to the panel again.

I would like to now recognize the Ranking Member for his questions. Mr. Cardoza?

Mr. CARDOZA. Thank you, Chairman Rooney. I have two sets of questions I would like the panel to address, the first one dealing with conservation programs. To what extent do your operations, as well as the industry as a whole, use conservation programs such as the Conservation Reserve Program, EQIP, the Grasslands Preserve Program? Have these programs allowed you to implement practices and make changes to your operation that you otherwise would not have undertaken, and thus improved the environment and your product? How have these programs helped you address either Federal regulation or state regulation, and if the budget for

these programs were significantly cut or eliminated, what effect would it have on your operation?

Mr. STRICKLAND. Thank you, sir, and yes, I do have an EQIP program on the ranch and it certainly has been very beneficial. I do appreciate the funding of those. They are cost-share funding, where I may spend 50 percent or 80 percent or 90 percent on the practices, but I certainly—I appreciate it. There are so many issues within USDA and all of the different cost-share programs that they have. On my ranch, that is the only one that I have on the ranch, but within those fundings—and going back to USDA in the State of Florida, we have a USDA research facility which does water quality research and nutrient research within the State of Florida. There are three of those USDA centers within the United States, in Nebraska and Montana. Those are totally different genetics, totally different water supplies, totally different rainfall and environmental concerns that those folks out there have. Right now, the funding is slated to be cut for my unit, my USDA unit there in the State of Florida. The unit itself actually does genetic research also, which covers about $\frac{1}{3}$ of the entire cattle population of the United States. Without that research going forward, who would then help with all those programs that you speak of?

Mr. CARDOZA. Thank you. I am going to ask my other questions so the rest of you can answer it as you go forward, because I have a limited amount of time. That is about regulatory burdens on this industry. We have heard a lot of concern from farmers and producers about regulatory uncertainty and the burdens they are under. Do you have any personal experiences with these regulatory agencies that have created cause for your concern? If you would go ahead?

Ms. BURKHOLDER. Yes, actually those are perfect questions and they juxtapose against each other very well. I do use EQIP funding at my cattle feedyard. I am a concentrated animal feeding operation, which means I operate under EPA's NPDES permit. As such, I am required to catch all of the liquid runoff that comes off of my facility when it rains, as well as have a comprehensive nutrient management plan for properly applying the solids, the natural fertilizer that my cattle produce, back on to our farm ground. I built a livestock waste control facility using EQIP funding just this past fall. I think that that is a great example of how we can collaborate together. We can use taxpayer dollars, we can use new science and technology in order to reduce our environmental footprint and work to do the best job possible.

I would like to juxtapose that experience against an EPA inspection that took place at my facility in 2001. One morning in September in 2001, two EPA agents walked into my office unannounced, took out their badges and informed me that they were EPA agents and if I lied to them, I was going to jail. Now I don't know about you all, but I don't consider that very collaborative. I consider that combative. I took the gentlemen through the feedyard. We looked at all the written documentation that I have to have. We keep weather and rainfall data, we read the level of water in our holding pond on a daily basis. I keep a lot of environmental records for my operation. So we went through both the records and I took them on a tour of the facility. As we drove past

the cattle, one of the gentlemen looked at me and said I have never been this close to a cow before. He then looked at my pens, and I have traditional pens that have mounds in the middle in order to offer our cattle the best comfort during inclement weather. And he said well, what are you doing with all that piled manure all over the place? I said I am sorry, sir, that is not manure. Those are my dirt mounds.

So I tell you all of this to make a couple of points. Number one, as I stated this morning earlier in my testimony, it is very important that we work together and we accomplish a common goal. I want to take care of the environment just as much as you do, but we need to be effective and efficient in trying to do it. Having combative agents show up on my property without knowledge of my business is not an efficient use of funds.

Now looking at the EQIP cost-share funding, that is a tremendously efficient use of taxpayer dollars, because it is allowing me to build a new livestock waste control facility that is lined, that is using modern technology and allows me to protect the groundwater and reduce my environmental footprint.

So my rather longwinded answer to your question is I believe that we share the same goals and if we can collaborate together through programs such as EQIP so that I can continually work to improve my operation, that is a great use of taxpayer dollars; a much greater use than an Environmental Protection Agency coming to visit me and sending me a letter afterwards, telling me that I wasn't keeping my daily rainfall records correctly because I wasn't writing down zeros on the days that it did not rain. I was only recording rainfall when we actually had precipitation. As a result of that record-keeping "error" on my part, I had to submit additional paperwork to the Agency for better than a year.

Now, I hate to speak for other folks, but I don't think that did a whole lot for protecting the environment, and it certainly didn't come close to what me building a new holding pond using EQIP dollars has done for the environment.

Mr. CARDOZA. Thank you for your testimony, and thanks to the Chairman for giving us some extra time to explore that answer. I appreciate it very much.

The CHAIRMAN. Now we will move to Mr. Gibson.

Mr. GIBSON. Well thanks, Mr. Chairman, and thanks for convening this hearing today. I would like to thank the panelists. This has already been very informative, and I would like to echo the comments of the Chairman as far as your service, Mr. Strickland, as well as that of your son. But, I also want to commend all of you for what you do for all of us. You are all servants for us in the producing of our food, and it is deeply appreciated.

You know, Ms. Burkholder, just listening to your commentary moments ago, nearly all of my adult life I have been a soldier, and I started as a private and I learned firsthand what it is like to do the hard work of a soldier. And even as I rose through the ranks and ultimately commanded a brigade combat team, about 3,700 men and women, I never forgot what it was like to be a private, to be a soldier.

So recently I asked my farmers—I have the great fortune of representing the 20th Congressional District in New York where we

have over 1,000 farms. I conveyed to them that I really needed to serve as a farmhand. I needed to learn what it was like firsthand so I wouldn't have that same serious void in knowledge and experience. So about 10 days ago or so I got what I asked for, rising at 3 a.m., on duty by 3:50 a.m., and milking—being part of milking 400 cows, mixing feed, delivering the feed, cleaning stalls, feeding baby calves, and then having a meeting of about 50 farmers. Look, it is 1 day. That is hard work. I really admire and respect what our farmers do, and I thought about it the next morning as I was rising about 6 a.m., they were already at work for 2 hours. So I have a long way to go to continue to learn, but your point is well-made, that all of those, whether they be serving in Congress or serving in Executive Branch, or doing the hard work that you are doing, we need to collaborate for the betterment of all the people in the United States of America.

You know, I also want to affiliate myself with the remarks that I have heard from you today, which is very similar to what I have heard from our farmers and small business owners, is that you are not looking for a handout. What you want is some empathy and for us to address the impediments to growth, taxes, regulation, healthcare costs and energy costs. When we can expand—when we attack these impediments your profitability grows and that allows you to flourish and for all of us to do better. And towards that end, the remarks by the Ranking Member, Mr. Cardoza, really accurately describe the farming situation in my district in that we are having a good year so far, but it is very tenuous and trepidatious, going forward.

And so one of the issues is high input in feed costs, and I am curious to know what your thoughts are. If you think that the ethanol policies that we have, tax credits, renewable fuel standards and the like, how you think that is impacting the price of corn feed, and what are your thoughts on policies to mitigate associated rising costs for inputs?

Ms. BURKHOLDER. Well, I really respect you for spending a day on the farm. I think that is a tremendous thing to do and, as you know, we face a population in the United States where less than two percent of us are actively engaged in feeding the country, that gap that exists between rural America and urban America really is problematic for us, so I really commend you for doing that.

I do grain fed cattle. I live in central Nebraska. Our natural resources are such that we grow crops and then we finish our cattle in concentrated feeding operations like mine. My husband is a farmer. He grows both alfalfa and corn, a little bit of wheat and some soybeans. So we are a diversified operation.

I believe in entrepreneurship and I believe that we always need to be thinking outside the box and looking for better ways to do things. At the same time, I do think that there is a point in time where an industry needs to be able to stand on their own. We have had ethanol subsidies in this country for 30 years now, and I think that the market is such now that it is probably time to say goodbye to those. I am very grateful to the ethanol industry because a co-product coming out of those plants is wet distillers grains, and that is an absolutely fabulous cattle feed. Nutritionally it is very good for the cattle, and it is just a fabulous feed. So we certainly in Ne-

braska have greatly benefited by being able to feed wet distillers grains to our cattle, and at the same time be able to harvest ethanol from that corn plant. But I do believe that it is probably time to let that go. If you pay any attention to the markets at all, you will notice that we have had severe volatility over the past 4 or 5 years, and that is very difficult to manage. I am in the margin part of the business and so I am acquiring calves and I am preparing them for harvest. And so as feed costs go up, that makes a tremendous impact on my business. Five years ago we could put 100 pounds of gain on a calf for \$40. Today is it going to cost me \$100. So it makes a tremendous impact.

I believe it is time for us to all be playing on the same level field.

Mr. GIBSON. Well I thank you very much for that commentary, and again, Mr. Chairman, I appreciate the hearing. I yield back.

The CHAIRMAN. Thank you, Colonel Gibson. Now we will move to Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman, and welcome, panelists. I would like to ask each of you your opinions, very briefly. It has been about 2 years now since the country of origin labeling has gone into effect, and I would be very interested to get your response to how that has impacted your business in terms of any process changes, any problem areas.

Let us start with you first, Ms. Burkholder.

Ms. BURKHOLDER. The very short answer to your question is I have not seen country of origin labeling improve my business. It has added cost, certainly, especially at the packing plant and the fabrication sector of the industry. I don't really believe that I have realized any gain from it.

Mr. SCOTT. All right.

Ms. BURKHOLDER. That being said, as I said before, we always need to think outside the box and we always need to find ways to add value to what we produce, and I spend an awful lot of time doing that. I do track my animals from birth to harvest. In fact, 100 percent of the cattle that are on feed in my feedyard right now can be traced back to the source of origin and a birth date. Those animals are individually tagged and we are following their performance all the way through the life cycle. So I have chosen to use that as a niche, a higher quality niche for my business. I am actually marketing those calves as age and source verified product. Ironically enough, most of that product is getting shipped to Japan because that is what the market is dictating at the moment.

Mr. SCOTT. Mr. Strickland?

Mr. STRICKLAND. Yes, sir, I am going to echo exactly what Anne has said. Bottom line, which is what keeps me in business, gives me the ability to take my ranch on to further generations, I have not seen one dime more for that program, which was so costly and met with so much debate. No, sir, I have not.

Mr. SCOTT. Okay. Let me ask you, Mr. Bull.

Mr. BULL. Yes, just really briefly. I think from our standpoint, obviously, we have had to add some carcass segregation sorts to manage the cattle by country of origin labeling. In order to keep those costs as small as we possibly could, we have chosen to do that only at one of our southern plants and one of our northern plants. And so it not only adds costs in the processing level, it cer-

tainly starts segregating which plants are available for some producers who choose to have an animal that is born in Canada or Mexico in their feeding operation. If you are in Kansas, you have no marketing outlet for those type of cattle.

Mr. SCOTT. Well let me ask you specifically about the Canadian situation. As you know, the Canadians have brought suit with the WTO. Give me your thoughts on that. Do you feel they have a case to stand on? Are their points legitimate? Each of you, how do you feel about that? Do the Canadians have a beef with this?

Mr. BULL. I think they probably do, but from our standpoint, obviously if you add a regulation that adds costs to a system, like country of origin labeling certainly did, but there is no benefit on the revenue side, then that cost has to be borne somewhere in the system. And today, that is being borne in a lower price, particularly of the Mexican feeder cattle coming across the border. They are now trading at a bigger discount to U.S. animals, and that discount is due to those added costs of segregating those animals going into country of origin labeling.

Mr. SCOTT. So do you—the answer to the question is that you do believe that the Canadians have a point here?

Mr. BULL. I think it has created a disparity in the value of the animals, outside of just the quality of the animals.

Mr. SCOTT. So the Canadians do have a point, that is what I am trying to get to.

Mr. BULL. Yes, sir.

Mr. SCOTT. All right. Is that true with you, Ms. Burkholder?

Ms. BURKHOLDER. I don't believe that I know enough to be able to accurately give you an opinion.

Mr. SCOTT. Okay, Mr. Strickland?

Mr. STRICKLAND. Sir, I am going to have to answer the exact same way that Ms. Burkholder did.

Mr. SCOTT. All right, thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Scott.

I will move to Mr. DesJarlais.

Mr. DESJARLAIS. Thank you. It is DesJarlais.

The CHAIRMAN. Sorry, sir.

Mr. DESJARLAIS. That is okay. Everybody screws that up.

Thank you all for coming today. I am a family practice physician by trade, but I grew up in western South Dakota, obviously a heavy ranch community there. I moved to Tennessee in 1993, and my father-in-law raises beef cattle in southern Tennessee. I wanted to bring some questions to you today from the Tennessee Cattlemen's Association. In anticipation of this hearing we reached out, and so hopefully the questions aren't redundant, but I did want to speak on their behalf.

Mr. Bull, we will start with you. The importance of exports to the economic health of the beef sector has been well established. The question that came forth to me was how would Mexican retaliatory trade restrictions affect the beef market in the USA?

Mr. BULL. You know, the Mexican market is really an interesting one. Obviously, Mexican feeder cattle come across the border to the United States, they are fed in the United States by American feeders using American grains, processed in American plants. Quite a bit of the product actually goes back to Mexico. I know during the

BSE time, Mexico was probably our number one market for beef, and is still a very viable market today. It is—they are a trading partner from the standpoint of buying and consuming more meat. And, what we see around the globe is as any country's GDP starts to grow, their per capita growth then fills their desire for their consumers to actually buy higher valued proteins, and certainly we have seen that in Mexico. The market that we had in Mexico 20 years ago is dramatically different than the market we have today, and they are a growing and vibrant market for our products out of the United States.

Mr. DESJARLAIS. Okay, thank you.

Mr. Strickland, it is almost impossible to have a conversation with anybody in production agriculture and have it not somehow turn to issues regarding Environmental Protection Agency. One of the issues has already been addressed here in an amendment sponsored by Kristi Noem from South Dakota and cosponsored by many of us, including myself, and that is the dust regulations. Under the proposed EPA regulations, would the EPA be able to come on to your farm in dry weather when cattle kick up dust?

Mr. STRICKLAND. Sir, there are two of us here. One is from Nebraska which has considerable dust concerns and then there is me. Our rainfall down in Florida—and most of our cattle are free ranging. Are we concerned about that? Absolutely, because what costs money and undue regulations for the folks that I send my cattle to affects my bottom line, absolutely. In Florida, we worry about that and you are absolutely right. We have dealt with the EPA on numeric nutrient criteria down in Florida, and we found that some of those overriding, overreaching, unobtainable goals, if you will, within EPA—and I have jumped from dust to water, but it appears to be somewhat of a trend that we are concerned about, yes, sir.

Mr. DESJARLAIS. Thank you.

Ms. Burkholder, I had some questions with you about over burdensome government regulations, but after your testimony a bit ago I don't know that I want to go there, because I only have a minute left and I think we need about 5 days. I empathize with you. The question that was sent was dealing with the GIPSA, and I guess what we will do just briefly here, what is the cost and burden of the paperwork and compliance associated with the GIPSA rule changes, as you see it?

Ms. BURKHOLDER. The biggest thing for me with GIPSA is I don't have a business model anymore, so how do you put a number to that? So that is a very good question, but a very hard question for me to answer. I am all about paperwork. I keep a lot of paperwork. Whether we are talking about agent source verification records, preconditioning vaccine records, antibiotic use records, records for the EPA, I keep a lot of records. That is part of my job. To put a dollar figure on what that is going to cost me, it is going to ruin my business. I may not be here next year.

Mr. DESJARLAIS. Thank you very much, and—

Ms. BURKHOLDER. May I address the dust issue briefly as well? Is that okay?

Mr. DESJARLAIS. Oh, yes, please.

Ms. BURKHOLDER. We have a lot of dust in Nebraska. In fact, in Nebraska cattle outnumber people 4:1. My kids absolutely love that

quote. They think it makes them very special. My feedyard is located out in the country, so to speak, and we are about 6 or 7 miles from two towns. Each town is roughly 3,000 people, so I live in a very rural area. Dust is something that we live with. Most of the roads that I travel on are gravel roads. I would tell you that we have more dust coming off of our gravel roads than we do coming out of our feedyard. If EPA pushes this through, we will be continually out of compliance. I could, I suppose, spend \$1 million on a sprinkler system to put in my feedyard, but that is not going to control the dust coming off the road right next door. So it really doesn't attain anything for us, and I would tell you that there is no way that Nebraska is ever going to be able to be in compliance.

Mr. DESJARLAIS. Thank you, and thank you, Mr. Chairman, for the additional time.

The CHAIRMAN. Thank you, sir.

The gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman, and I thank the witnesses for your testimony.

I turn first to Mr. Bull, and just ask as we have gone through the BSE debate over the years and we have watched things ramp up and ramp down, just taking a little temperature check on the industry. Is the industry closer to or further away from an RFID proposal than they were, say a year or 2 or 5 ago?

Mr. BULL. Great question. I would have said—I forget the exact year that I was testifying here on country of origin labeling and I thought there was more appetite in the House Agriculture Committee for an animal ID system than there was for country of origin labeling, and I was optimistic that we were moving in that direction quickly. Unfortunately, it certainly has met roadblocks over the years. There appears to be a bit of a ground swell of desire potentially for animal ID and traceability improvements that I think could bring enormous value and benefit to the industry. But I would hesitate to say that we are very close today to getting that accomplished.

Mr. KING. Mr. Bull, would you think we have slipped further from that over the last couple of years, or which direction is that line of scrimmage going?

Mr. BULL. I would say it is still pretty far away. Whether it has gone further away, there appears to be at least a glimmer of discussion starting again potentially for animal ID, but I would still call it a glimmer. So no significant movement.

Mr. KING. And where I see it from where I sit, it is that we are probably an animal health crisis away from that, if that should happen. Let us hope it doesn't happen. I am okay if there is no crisis, so my urgency is going in proportion to that as well.

But I wanted to ask Ms. Burkholder, do you use an animal ID system in your feed lines?

Ms. BURKHOLDER. We do. As I said, we trace calves individually from birth to harvest. For the most part, we are using a visual tag. I use Sampson, Incorporated as my PBP supplier, and as part of their program they have a very large visual individually numbered program compliant tag. That is mainly what we are using. I am using that because that is a great tool for my cowboy. When you are up on a horse and you are checking cattle and you can write

down a number, you can't stand up there with your wand. So yes, we are using an individual ID system through our feedyard. In fact, many of the calves are carrying three different individual identifiers in the yard, but we are—we do use a little bit of the RFID technology. I have some cow-calf producers who are putting those tags in on the ranch. We are not using a lot of it in our feedyard because of those reasons that I just mentioned.

Mr. KING. What is your advice for the industry?

Ms. BURKHOLDER. Allow the market to drive it.

Mr. KING. Thank you. Mr. Strickland?

Mr. STRICKLAND. That last comment of Anne's really stole my thunder, by the way, Anne.

Not only do we down in Florida raise cattle for the domestic market, but we also ship live animals around the world. Whether it is—right now we are working on a dairy shipment to Pakistan or we are working on horses to go to Guatemala, it goes back to that same concept of traceability. There are various ways of doing traceability because I know we have a lot of brand states here that feel firmly that they need to stick with the brand aspect of it. But right now, whenever we see other countries opening up their market, and if that country drives the boat, so to speak, and mandates that you shall, then I think that those producers, like myself and like everybody on the panel, that if there is money to be captured out there by doing specific things, it certainly ties back to the same concept. It is the very same concept that GIPSA gave us: the opportunity to get those niche markets and so it may be money well spent.

Mr. KING. And I thank you for your response. I just want to make my position clear is that if this happens, I don't want the USDA to be driving it, I want the producers to be in control, and that is where I have taken the initiative on this, but I am sitting back waiting for the industry to make some move. Then I will give you—take it back to you, Mr. Strickland. The counsel I am interested in also is every time I sit down and talk with anybody in agriculture, and they are all my neighbors around me from where I can see on my deck and all around, always the EPA comes up. We are a little bit nonspecific about what to do, but we are in this environment where we have at least a Republican Majority in the House of Representatives and we control the purse strings. Do you have any advice on where we might tighten those purse strings with regard to the EPA?

Mr. STRICKLAND. Well you asked the right person from Florida with our numeric nutrient criteria that has fallen upon our heads and rained amongst our shoulders with inaccurate science. Financial numbers that they have given us that initially came out with EPA to implement the numeric nutrient criteria, and only in the State of Florida with \$113 million. We just finished with a study that was done by Florida Department of Agriculture and their ag water policy in conjunction with the University of Florida, and their agriculture and economic group there. We wanted to see what it was going to cost, and instead of the \$113 million, we came up with anywhere from \$800 million to \$3.3 billion. EPA suggested that there would be 6 million acres in my state that would have—that would be affected by this new criteria, which by the way, is

unobtainable. Our figures from that same group came up with 13.5 million acres. If there is any way to say that until you come up with an obtainable goal and sound science, that we are not going to fund something that would affect the bottom line of the United States of America and the State of Florida, then that would certainly help, but it is not specific to Florida. As they move, EPA controls, we have caught the brunt but we have the rest of the United States that is going to be involved in that fight if we don't stop them now.

Mr. KING. Thank you, Mr. Strickland, I appreciate your input on this. My clock ran out a little while ago and we will examine your point. Thank you.

Mr. Chairman, I yield back.

Ms. BURKHOLDER. Mr. Chairman, could I answer as well?

The CHAIRMAN. Absolutely.

Ms. BURKHOLDER. Okay. I want to touch on something that the EPA is doing right now that is a little bit back behind the door. I want to talk about the Conservation Practice Standard Code 590 regulations that are coming through the NRCS office. I think that we all need to be cognizant of what the regulations are and we need to do a good job defining those regulations because those regulations are ruling the way that I do my business. When the EPA goes through the NRCS office to do things like this Conservation Practice Standard Code 590, it makes it so that I don't know what I have to do to be in compliance, because there is no regulatory backup for it, okay? And so that makes it very difficult for me to know what to do to run my business to be in compliance, because it is not out in the open.

Now if you look at that document, you will see in there that I am not going to be allowed to spread my natural fertilizer on my farm ground when the ground is frozen. In fact, for a while there was verbiage in there that I couldn't spread it when the wind was blowing 10 miles an hours. I didn't know if you all have ever been to Nebraska, but one thing that is constant is that we always have wind. Part of our agricultural operation, the sustainable cycle of my husband's and my operation is being able to take our crops, feed them to cattle, harvest a high quality human protein to sell to you, and also harvest that natural fertilizer that is coming out of the cattle to put our nutrients back into our soil. And so at the NRCS office, and if EPA runs the NRCS office and makes it so that it is very difficult for me to spread that natural fertilizer back on my ground, again, that is going to have a huge impact on the way that I run my business.

Mr. KING. Thank you.

The CHAIRMAN. Thank you, Mr. King.

I will now move to the former Ranking Member of this Subcommittee, Mr. Neugebauer.

Mr. NEUGEBAUER. Thank you, Chairman Rooney, for having this hearing. I apologize for being a little bit late here.

Ms. Burkholder, kind of tell me a little bit about the cattle that are in your feedlot. In other words, are you feeding some of your own cattle, are you feeding cattle on behalf of others, and when you look at some of the potential GIPSA rules on marketing those cattle, do you see some pitfalls and some concerns that you have?

Ms. BURKHOLDER. Certainly. As I stated earlier, I have worked really hard in the last 10 years to get cow-calf partners that want to trace their animals from birth to harvest. When I go out in the country to buy calves, I am my own cattle buyer. When I go out in the country to buy calves, I look for cow-calf operators that want to at least retain a little bit of interest, maybe not monetary, but interest in the performance of that animal all the way through the life cycle. I do partner with some of them financially, although many times I am going out in the country and I am purchasing that calf because the cow-calf operator doesn't feel comfortable with the volatility of the market retaining ownership of that calf. Something that is very important to me is the ability to then provide that cow-calf producer, regardless of whether or not he has a financial stake in that calf anymore, with the carcass and the feedyard performance of that animal.

As I said before, we are in the business of making beef, and if we can't vertically collaborate to do a better job, that is going to stagnate us in our ability to move forward and to continue to add quality to our product.

So part of the reason that I am in the AMA that I am with U.S. Premium Beef is because they will give me detailed carcass data tied to an individual calf so that I can take that information, combine that information with the calf's feedyard performance, and then give all of that information back to my cow-calf operator so that he can go back and look and see was the calf efficient for me at the cow-calf level? Did he work in the feedyard level? What did the beef that he produced look like? And so that AMA is really important to completing that cycle to be able to trace that calf.

Mr. NEUGEBAUER. And so if you can receive a premium for delivering that high quality, then are you going to also reward that cow-calf operator when you—when he has calves to sell or—obviously you may bid a little higher for that animal?

Ms. BURKHOLDER. Absolutely. That is right. I want to forage relationships with people. I want to buy the same calves every year. I want to partner with the same people every year. So in order to do that over time, you have to take care of each other. We try to take care of each other and pass that premium back and forth.

Mr. NEUGEBAUER. So if the GIPSA rules begin to bring a liability for—to making that differentiation or create some flaws in the marketing system, that is disincentive for you to do that, is it not?

Ms. BURKHOLDER. Absolutely. It ruins my entire business model. I have to go back and figure out how to feed cattle, because the way that I am doing it now, it wouldn't work.

Mr. NEUGEBAUER. Thank you.

Mr. Bull, a number of people have said that this—one of the elements of the GIPSA rules is that it bans packer to packer transactions. Some people think that will have some unintended consequences. Can you kind of—a lot of people don't understand what those are. Can you elaborate on those just a little bit?

Mr. BULL. Certainly. From our standpoint, we do not buy fed cattle from any of our competitors; however, some of our competitors have feedlots that are not very well positioned to their packing plants, and to save the freight and expense they sell to a competitor of theirs. I think some of the best examples to really get to the

heart of the packer to packer ban site, because there are some issues related there that are pretty much a nuisance. But to the heart of it, there has been some great branded beef operations that have been set up by producers, Myers Natural Angus, Nolan Ryan Beef, and on and on around this country, and because of the classification they are packers, but they are not big enough to own a packing plant, nor do they even want to own a packing plant. And so they make arrangements with processors like myself who will process those cattle for them, then they sell the meat out of that business. So they are producers that have grown a brand, put a lot of energy around it, and now have created a branded meat solution. The packer to packer ban would actually either force them to sell to me or go out of business or buy their own packing plant, and to me, that is the heart of some of the unintended consequences that we have seen from some of these rules.

Mr. NEUGEBAUER. I think one of the concerns a lot of us have is that business models that have worked very successfully are jeopardized by these rulemaking processes, and particularly when I think about it—and I go back to Ms. Burkholder, even possibly Mr. Strickland, is these marketing arrangements between—whether it is the cow-calf and the feedlot or the feedlot and the packer, is people have established, as Ms. Burkholder said, business models, which in some cases, the livestock business is a leveraged business. It requires a tremendous amount of capital, and many of the financing arrangements for these operations are based on somewhat of the certainty that these marketing agreements provide for basically everybody up and down the chain.

Mr. Strickland, are you concerned about the—having those kinds of impact?

Mr. STRICKLAND. Yes, sir, without a doubt. Yes, sir, because it all starts right here at this end of the table and goes to the other end of the table. What we do on our ranch, whenever I invest that money in better bulls, whenever I invest that money in individual IDs, whenever I invest that money for age and source verification, I want a premium and I want to be paid for it. It is a competitive market and we live in the United States. I understand competition, and I am going to try to do my best to produce a very healthy product, but I still need money to pay the bills on the ranch. I want to be paid for them and I strongly feel like this GIPSA rule will prohibit me from dealing with people like Ms. Burkholder next to me and on down the road, whether it is Amarillo, Texas, or Oklahoma City.

Ms. BURKHOLDER. Sir, if I could offer one more comment. I think that we need to remember that the consumer has a right to have a choice, and one of the things that these niche markets or these AMAs have allowed is the production of a slightly different type of product that the market, the consumer has said that they desire. I think that a healthy business continues to evolve to meet the needs of the consumer, of the folks that are buying our beef. And so I want everybody to remember the fact that these AMAs are helping to give the consumer what they want, and I think that at the end of the day that is very important.

Mr. NEUGEBAUER. Yes, one of the important things about some of these niche products and marketing processes is what we have

demonstrated is the market is much more powerful and stronger than a bunch of government regulations. My big fear here is that the government comes in and causes either some market distortion, or in many cases, elimination of some of the choices as Ms. Burkholder said.

Mr. Chairman, this has been a great panel, outstanding panel. Thanks for having this important hearing.

The CHAIRMAN. Thank you, sir. Being that there is no more questions, I want to thank the witnesses for their testimony. As I said in my opening statement, this is the first, hopefully, of many topics that we will delve into on this Committee, but I think that this was a great start. I didn't know that we had two Floridians here. I don't know how you go, Ms. Burkholder, from West Palm Beach to Nebraska, but you are an excellent spokeswoman for your trade. I appreciate all the testimony of the witnesses today.

With that, under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplemental written responses from the witnesses to any question posed by a Member.

This hearing of the Subcommittee on Livestock, Dairy, and Poultry is adjourned.

[Whereupon, at 10:42 a.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

RESOLUTION SUBMITTED BY HON. LEONARD L. BOSWELL, A REPRESENTATIVE IN
CONGRESS FROM IOWA

National Farmers Union

Special Orders of Business 2011

Farmer and Rancher Bill of Rights—GIPSA Rule

Whereas, the Grain Inspection, Packers and Stockyards Administration (GIPSA) was created in 1994 as a merger of the Packers and Stockyards Program, established in 1921 under the Packers and Stockyards Act to regulate livestock marketing activities at public stockyards and the operations of meat packers and live poultry dealers, and of the Federal Grain Inspection Service, founded in 1976; and

Whereas, the number of U.S. beef and hog operations has been rapidly declining, from 660,000 hog farms in 1980 to only 67,000 today, and, in the same period, 1.27 million beef cattle operations to only 742,000; and

Whereas, National Farmers Union commissioned an economic report in 2007 to gauge market concentration by the percentage of the marketplace controlled by the top four participants (known as CR4) which found that the CR4 for beef packing is 81 percent and 65 percent for pork processing; it should be noted that economists consider a CR4 in the range of 40 to 60 percent to be the level at which competition is lost; and

Whereas, the Government Accountability Office found in 2000 GIPSA's investigations were planned and conducted primarily by economists without the formal involvement of attorneys from USDA's Office of General Counsel, resulting in a lack of emphasis on assessing potential violations when investigations were initiated and conducted; and

Whereas, in several lawsuits filed by producers against processors in the recent past, a 12-person jury found unanimously in favor of the producer due to unfair practices by integrators, but then later an appellate court of three judges reversed the decisions by stripping authority away from the Packers and Stockyards Act (PSA) despite dissenting views from the USDA, the agency that has regulatory authority over the law; and

Whereas, the authors of the 2008 Farm Bill recognized certain aspects of the PSA needed clarification and directed USDA to write regulations with respect to the PSA to establish criteria that the secretary of agriculture will consider in determining if certain actions taken by packers, processors or integrators constitute a violation of the PSA; and

Whereas, NFU submitted comments to the USDA in response to the GIPSA rule and asked for greater explanation of what business records must be disclosed by packers and processors to justify differential pricing schemes, more clarity with regard to the required submissions of sample contracts, and to ameliorate the consequences a producer may directly or indirectly experience from a full ban on packers selling to other packers; and

Whereas, USDA and the Department of Justice held five joint listening sessions throughout the country in 2010 to examine the issue of concentration and competition in agriculture, which was an unprecedented signal that the Federal Government intends to seriously enforce the PSA;

Therefore, Be It Resolved that the Secretary of Agriculture should push forward with full implementation of the GIPSA rule to return protections to producers from the misuse of market power and consolidation of the beef, pork and poultry industries, as the original law intended; and

Be It Further Resolved that the Secretary of Agriculture and Attorney General are requested to act posthaste on the findings from the five workshops held on consolidation and lack of competition in the agriculture industry in 2010; and

Be It Further Resolved that USDA should recognize that many livestock buyers have multiple independent livestock operator clients and should be treated differently than the buyers representing major packers; and

Be It Further Resolved that USDA should calculate the CR4 for all of the major meat sectors on an annual basis and publish the data in a user-friendly format.