



*United States Senate  
Senate Budget Committee*

*Written Statement of Terry Duppong  
Glen Ullin, North Dakota*

*Regarding*

*Mad Cow Disease -- Industry Impact and U.S. Government Response*

*on behalf of*

*Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA)*

*January 9, 2004*

Chairman Nickles, Ranking Member Conrad, members of the Committee, I am Terry Duppong, together with my wife, Patty, and two sons, Ty and Casey, we own Duppong's Willow Creek Farms in Glen Ullin, North Dakota. We raise registered Angus cattle and we finish cattle on our full-time ranching operation. I am also proud to be a member of the Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA). Our organization has worked tirelessly on behalf of the American cattle producer. Our focus has been on protecting and promoting the interests of independent cattle producers, and it is from that perspective that I come before you today. I appreciate the opportunity to provide comments on this issue as it is very important to the cow-calf operators, backgrounders and independent ranchers who constitute the heart of this country's cattle and beef industry.

The impact of the December 23, 2003, announcement by the United States Department of Agriculture (USDA) of a "presumptive positive" case for BSE in a Washington State dairy cow was immediate and damaging to the United States live cattle industry. We commend the United

States Department of Agriculture (USDA) and its various departments, including the Animal and Plant Health Inspection Service (APHIS) for doing an excellent job at calming consumer concerns by clearly explaining the BSE mitigation measures the United States began implementing in 1989. However, we are disappointed that the USDA has thus far ignored the economic interests of United States cattle producers as its actions have resulted in the subordination of U.S. cattle producers' interest to other interests, some of whom are our foreign competitors.

Despite the fact that the "presumptive positive" cow was tagged with a Canadian export ear-tag,<sup>1</sup> the USDA chose not to disclose this factual information until four days after its announcement of a "presumptive positive" case for BSE. R-CALF USA had received numerous reports, beginning on December 24, 2003, from members familiar with the investigation who indicated that the cow was tagged with a Canadian ear-tag. On December 26, 2003, R-CALF USA contacted the USDA urging the release of this factual information to prevent the market from overreacting. On December 27, 2003, the USDA finally announced the fact that the cow was tagged with a permanent ear-tag indicating the cow was imported from Canada.<sup>2</sup> However, this information was provided too late as cattle markets had already begun to cement its application of a worst-case scenario for the situation. This worst-case scenario was that the United States likely had a native case of BSE, implying that it also had a significant break in its BSE prevention program, including the possibility of a contaminated feed supply.

During the week preceding the December 23, 2003, BSE announcement, the 5 Area Weekly Weighted Slaughter price was approximately \$91.50 per cwt.<sup>3</sup> For the week following

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<sup>1</sup> Transcript of Technical Briefing and Webcast with U.S. Government Officials on BSE Case, December 27, 2003, in which Dr. Ron DeHaven stated, "What we have is a match to an ear-tag that was recovered from the animal at slaughter and records in Canada with that same ear-tag number," available at <http://www.usda.gov/news/releases/2003/12/0444.htm>, downloaded on January 8, 2004.

<sup>2</sup> Id.

<sup>3</sup> Estimated price based on verbal reports as USDA historical data was unavailable at time of writing.

the announcement, week ending December 26, 2003, the price was \$86.01 per cwt.<sup>4</sup> During the next week, week ending January 2, the price fell to \$74.59 per cwt.<sup>5</sup> Thus, the uncertainty in the market, caused largely because the market did not have the factual information necessary to mitigate the formulation of a worst-case scenario, was absorbed by United States live cattle producers who suffered an approximate \$15.91 per cwt. drop in the value of fed cattle. This equates to a loss of \$190.92 per head based on a 1200 pound steer.

Not only did the United State's domestic cattle market receive insufficient information to apply anything but a worst-case scenario to the disease situation, but our international markets were equally uninformed. On December 23, 2003, APHIS submitted the United States' Emergency Report to the World Organization for Animal Health (OIE), the international organization that develops animal health standards for its 165 World Trade Organization (WTO) members including the United States. In its Emergency Report, APHIS stated that the source of the BSE agent and the origin of infection was "[U]nknown. Trace-back and trace-out investigations have been initiated."<sup>6</sup> Thus, United States' export customers, which are also members of the OIE and respectful of its mission, were officially notified that the United States had a "presumptive positive" case for BSE; but they were not informed that the infected cow was tagged with a Canadian ear-tag. It was not until at least December 28, 2003, that APHIS submitted its follow-up Emergency Report to the OIE stating that "Preliminary tracing indicates that the animal may have entered the United States from Canada between 28 August and 25 October 2001."<sup>7</sup> It is, therefore, the case that the United States' non-disclosure of the Canadian ear-tag on the BSE infected cow was assimilated by United States' export customers for at least

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<sup>4</sup> National Weekly Cattle and Beef Summary, USDA Livestock & Grain Market News, January 5, 2004.

<sup>5</sup> Id.

<sup>6</sup> Disease Information, Vol. 16 – No. 52, Bovine Spongiform Encephalopathy in the United States of America: Presumptive Diagnosis, December 26, 2003, available at [http://www.oie.int/eng/info/hebdo/AIS\\_65.HTM#Sec1](http://www.oie.int/eng/info/hebdo/AIS_65.HTM#Sec1), downloaded on January 8, 2004.

as long, if not longer than it was assimilated by the domestic market. Meanwhile, the OIE did not include the United States on its international list of “Territories/Countries Having Reported Cases of BSE in Imported Animals Only.”<sup>8</sup> Instead, the OIE classified the United States as having a confirmed case on December 23, 2003, without any explanatory footnotes.<sup>9</sup>

The information the USDA provided as well as the information it did not provide in a timely manner to the OIE is significant because the BSE standard established by the OIE and contained in the OIE Code provides that a country’s disease ranking may not change if BSE is found in an imported animal. More specifically, if the United States discovers a BSE case in an animal that has been clearly demonstrated to originate directly from the importation of live cattle, and all of the offspring of the infected animal are destroyed, then such a BSE case does not disqualify the United States from its “BSE provisionally free country or zone” ranking.<sup>10</sup>

It is important that Congress realize that if mandatory country of origin labeling (COOL) were in place when the “presumptive positive” BSE case was announced, the financial harm experienced by United States cattle producers would not likely have occurred and the investigation and recall would have been expedited for the following reasons:

1. The Secretary of Agriculture would have been obligated to announce the fact that the cow was of foreign origin at the time of the BSE announcement as the mark of origin or other identification would be a legally sanctioned method of determining that an animal was imported. This would have eliminated the

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<sup>7</sup> Disease Information, Vol. 17 – No. 1, Bovine Spongiform Encephalopathy in the United States of America: Follow-up report No. 1 (confirmation of diagnosis), January 2, 2004, available at [http://www.oie.int/eng/info/hebd/AIS\\_64.HTM#Sec0](http://www.oie.int/eng/info/hebd/AIS_64.HTM#Sec0) downloaded on January 8, 2004.

<sup>8</sup> Territories/Countries Having Reported Cases of BSE in Imported Animals Only, Office International des Epizooties, Updated 13-11-2003, available at [http://www.oie.int/eng/info/en\\_esbimport.htm](http://www.oie.int/eng/info/en_esbimport.htm), downloaded on January 8, 2004.

<sup>9</sup> Number of Reported Cases of Bovine Spongiform Encephalopathy (BSE) Worldwide (excluding the United Kingdom, World Organization for Animal health, available at [http://www.oie.int/eng/info/en\\_esbmonde.htm](http://www.oie.int/eng/info/en_esbmonde.htm).

<sup>10</sup> Terrestrial Animal Health Code, 11<sup>th</sup> edition – 2003, Part 2, Section 2.3, Chapter 2.3.13., Office International des Epizooties.

price depressing uncertainty that pervaded the domestic and international markets.

2. The meat from the infected cow would have been segregated from the meat of the other 22 cows that were slaughtered on the same day and that were exclusively born, raised, and slaughtered in the United States. Thus APHIS would not likely have had to trace and recall all 10,000 pounds of beef that was subsequently distributed from the plant. COOL would have facilitated the recall efforts as only Canadian labeled beef would have been subject to the recall.
3. Consumers could have been informed that only beef products labeled with “Canada” were subject to the recall and this would have resulted in consumers maintaining the utmost confidence in beef labeled “product of the USA.”

R-CALF USA has determined that since 1997, the year the United States’ feed ban went into effect, the U.S. imported 8.1 million head of live Canadian cattle into the U.S. However, 6.2 million of these cattle were imported directly for slaughter and another 1.6 million were feeder cattle destined for slaughter within 4-8 months. Since our border has been closed to live Canadian cattle for over seven months, all these cattle have likely been purged from our system. This leaves approximately 437,000 head of Canadian cattle that may still reside in the U.S. However, 382,000 are dairy cattle and less than 55,000 are beef cattle.<sup>11</sup> It would appear that this is a manageable number of cattle as it represents less than one-half of one percent of the total U.S. cattle herd. APHIS should work aggressively to identify and subsequently mark these imported cattle with a permanent mark of origin to prevent the possibility that one of these

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<sup>11</sup> U.S. Trade Statistics, United States Department of Agriculture, Foreign Agriculture Service, HS 10-Digit Imports, available at <http://www.fas.usda.gov/ustrade/USTExHS10.asp?QI=>, downloaded on January 2, 2004.

animals may lose their Canadian export tag. In addition, the U.S. could require testing of all these animals at the time of slaughter.

With respect to the value of the United States beef export markets subject to risk as a result of the BSE case, R-CALF USA has reviewed the USDA-Foreign Agricultural Service's (FAS's) HS 10-Digit exports and found that the value of beef and edible beef offal exports worldwide during the first ten months of 2003 was \$2.9 billion. This partial-year value is equal to the full 2002 calendar year value of \$2.9 billion.<sup>12</sup> The total value of United States' cattle exports worldwide, including both dairy and beef cattle, was \$54 million in the first 10 months of 2003, and \$131 million in calendar year 2002.<sup>13</sup> Therefore, in calendar year 2002, the total value of United States' cattle and beef exports was \$3 billion. A risk analysis was recently conducted by APHIS to assess the risks associated with re-opening the Canadian border to live cattle and beef. In its analysis, APHIS included additional risks associated with BSE if trade restrictions were enforced against the United States. It estimated that indirect losses to United States' firms that support ruminant exports would equal an additional \$2.5 billion annually.<sup>14</sup> In addition, APHIS estimated that more than 33 thousand full-time jobs, accounting for almost \$1 billion in wages annually could be jeopardized.<sup>15</sup> Thus it appears that \$6.5 billion in export value is at risk.

It is important to note that the United States live cattle industry is a supply sensitive industry. If our borders remain closed to exports, the 2.4 billion pounds of beef destined for export annually will continue to stockpile; and the continuing flow of beef imports into the

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<sup>12</sup> U.S. Trade Statistics, United States Department of Agriculture, Foreign Agriculture Service, HS 10-Digit Exports, available at <http://www.fas.usda.gov/ustrade/USTExHS10.asp?QI=>, downloaded on January 8, 2004.

<sup>13</sup> Id.

<sup>14</sup> Risk Analysis: BSE Risk from the Importation of Designated Ruminants and Ruminant Products from Canada into the United States, Animal and Plant Health Inspection Service, Veterinary Services, October 2003.

<sup>15</sup> Id.

United States, in the amount of 3.2 billion pounds annually, will certainly compound our already depressed cattle prices.<sup>16</sup>

This is precisely why, on the day of the BSE announcement, R-CALF USA sent an emergency letter to President Bush and Secretary Veneman urging them to “Immediately close the United States border to all imports of live cattle, beef, and both raw and manufactured livestock feed until the circumstances surrounding this suspected case are fully disclosed and understood.” R-CALF USA explained that this measure was needed to prevent a market collapse caused by a build up of excess beef supplies.<sup>17</sup> Neither the President nor the Secretary has responded to this request.

R-CALF USA does not have direct knowledge regarding the potential cost of a mandatory animal identification system. However, the USDA-Agricultural Marketing Service (AMS) reviewed a number of studies which estimated the costs to producers for identifying live animals. The AMS references the study conducted by E.E. Davis of Texas A&M, “Estimate of Start-up Costs for Country of Origin Labeling Requirements to the Texas Beef and Cattle Sectors,” in its proposed rule for country of origin labeling. The AMS indicates that the Davis study included permanent animal identification in its cost estimate for producers.<sup>18</sup> The Davis study projected a first-year cost estimate of \$1.3 billion for producers.<sup>19</sup>

The United States does not have a native case of BSE. Our efforts should be directed toward preventing the introduction of BSE from imported sources. To this end, the immediate implementation of COOL is the quickest way to begin accurately differentiating domestic live cattle from imported cattle; and should any of our livestock importers have another disease

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<sup>16</sup> Livestock, Dairy, and Poultry Outlook, USDA-Economic Research Service, LDP-M-112, October 28, 2003. Volumes based on 2002 calendar year and trade deficit calculated by converting live cattle import number to carcass weight equivalent.

<sup>17</sup> Leo McDonnell, Letter to President Bush and Secretary Veneman, December 23, 2003.

<sup>18</sup> Federal Register, Vol. 68, No. 210, October 30, 2003, at 61962.

<sup>19</sup> Id. at 61961.

outbreak, we can immediately segregate these animals from the U.S. herd. Removing livestock from the Department of Treasury's list of exceptions from the general requirement to mark all imported products with a mark of origin, known as the J-List, would immediately enable us to accurately identify all animals that are not born and raised in the United States.

Individual animal identification, on the other hand, is a tool to manage a disease once an outbreak occurs. While there are benefits to be derived for this specific purpose, we must not let animal identification interfere with the goal of preventing the disease in the first place. COOL has already been passed, the rules are near completion, and the effective date is set. Congress should first ensure that COOL is implemented on schedule and then our industry can take animal identification under consideration.

To mitigate the financial damage that continues to accrue to the U.S. live cattle industry as a result of this imported case of BSE, we ask that you immediately take the following actions:

1. Immediately close the borders to all imported beef and cattle until all our trading partners remove their import restrictions against the United States.
2. Ensure that COOL is implemented on schedule and work with the Department of Treasury and the USDA to begin permanently marking all imported livestock immediately. This includes all imported Canadian cattle currently residing in the U.S.
3. Seek emergency funding to indemnify livestock producers who have suffered financial losses due to this single case of BSE in a Canadian cow.
4. Begin the development of an insurance or indemnification program for U.S. cattle producers to protect them from losses in the event of a future disease outbreak.

Thank you,

Terry Duppong