

A. Clifford Edwards
Taylor S. Cook
Edwards, Frickle, Anner-Hughes, Cook & Culver
1601 Lewis Avenue, Suite 206, P.O. Box 20039
Billings, MT 59104
(406) 256-8155
Fax: (406) 256-8159
Email: edwardslaw@edwardslawfirm.org

Russell S. Frye*
FryeLaw PLLC
P.O. Box 33195
Washington, DC 20033
(202) 572-8267
Fax: (866) 850-5198
Email: rfrye@fryelaw.com

William L. Miller*
The William Miller Group, PLLC
3050 K Street, NW
Fourth Floor
Washington, DC 20007
(202) 342-8416
Email: wmiller@radix.net
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

RANCHERS CATTLEMEN ACTION LEGAL FUND)	
UNITED STOCKGROWERS OF AMERICA,)	
)	
Plaintiff,)	Cause No.CV-05-06-BLG-RFC
)	
vs.)	
)	
UNITED STATES DEPARTMENT OF AGRICULTURE,)	PLAINTIFF'S MOTION
ANIMAL AND PLANT HEALTH INSPECTION)	TO SET MOTIONS FOR
SERVICE, et al.,)	SUMMARY JUDGMENT
)	FOR ARGUMENT
Defendants.)	

In this action for judicial review of a U. S. Department of Agriculture (“USDA”) rulemaking under the Administrative Procedure Act, 5 U.S.C. § 701-706, cross-motions for summary judgment were filed and fully briefed this spring and early summer. Argument on the summary judgment motions was scheduled for July 27, 2005, but the Court cancelled that argument pending receipt of the Ninth Circuit’s opinion vacating the preliminary injunction that had been issued in this case on March 2, 2005. The Ninth Circuit issued its opinion on July 25, 2005, 415 F.3d 1078, and it denied Ranchers Cattlemen Action Legal Fund United Stockgrowers of America’s (“R-CALF USA’s”) petition for rehearing on October 13, 2005.

As explained in the attached memorandum, there is no reason to postpone argument on the cross-motions for summary judgment any further. In fact, events since briefing of the summary judgment motions only reinforce the need for this Court to review and vacate USDA’s January 4, 2005 Final Rule allowing importation of cattle and beef from Canada. R-CALF USA accordingly respectfully requests that a hearing on the pending cross-motions for summary judgment be scheduled at the Court’s earliest convenience. Counsel for Defendants has been contacted and indicates that Defendants agree that the summary judgment motions can now be decided, but it is their position that the need for oral argument is a matter for the Court's discretion. Defendants otherwise reserve judgment on whether it will be necessary to respond to this motion.

Dated: January 6, 2006

Respectfully submitted,

A. Clifford Edwards
Taylor S. Cook
Edwards, Frickle, Anner-Hughes, Cook & Culver
1601 Lewis Avenue, Suite 206, P.O. Box 20039
Billings, Montana 59104

(406) 256-8155

Russell S. Frye*
FryeLaw PLLC
P.O. Box 33195
Washington, DC 20033
(202) 572-8267

William L. Miller*
The William Miller Group, PLLC
3050 K Street, NW, Fourth Floor
Washington, DC 20007
(202) 342-8416

*Admitted *pro hac vice*

Attorneys for Plaintiff Ranchers Cattlemen Action Legal
Fund United Stockgrowers of America

CERTIFICATE OF SERVICE

I certify that on January 6, 2006, I served true and correct copies of Plaintiff's Motion To Set Motions for Summary Judgment for Argument, by first-class mail, postage prepaid, on the following:

Mark Steger Smith
Assistant United States Attorney
Office of the United States Attorney
PO Box 1478
2829 3rd Ave. North, Suite 400
Billings, MT 59101

Lisa A. Olson
U. S. Department of Justice
20 Massachusetts Ave., N.W., Room 6118
Washington, DC 20530

Donna Fitzgerald
Trial Attorney
General Litigation Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 663
Washington D.C. 20044-0663
