

Cattlemen's Newsletter

♦ Volume 9, Issue 5 ♦ August/September 2008 ♦

MEMBERS WIN 3RD INJUNCTION AGAINST USDA'S BSE RULES

July 3, 2008 Billings, Mont. – The U.S. District Court – District of South Dakota, Northern Division (District Court), granted in part a motion for a preliminary injunction against the U.S. Department of Agriculture's (USDA's) OTM (over-30-month) Rule, filed by R-CALF USA and 10 additional plaintiffs (Plaintiffs). The OTM Rule, which took effect on Nov. 19, 2007, opened the Canadian border to imports of live cattle born after March 1, 1999, and beef products from Canadian cattle of any age.

"For the third time in this 5-year battle to secure adequate protections for both U.S. consumers and U.S. cattle producers, R-CALF USA was awarded an injunction against USDA's wrongful actions," said R-CALF USA President/Region VI Director Max Thornsberry, a Missouri veterinarian.

"The effect of this decision is that USDA is now forced to go back to do what should have been done before the OTM Rule was published in the first place," said Thornsberry. "In addition, all of our other claims will remain pending before the District Court, thus providing additional pressure on USDA during the Court-ordered rulemaking process to write a rule that will provide the U.S. with necessary protections to prevent the introduction of BSE from Canada."

Thornsberry said R-CALF USA also will take the District Court's decision back to the congressional sponsors of the Resolution of Disapproval, which was introduced last fall to overturn the entire OTM Rule, and will once again ask Congress to step forward to limit USDA's discretion on such an important decision as protecting U.S. consumers and the U.S. cattle herd against the introduction of BSE.

Note: To view this entire news release and more information about BSE visit www.r-calfusa.com.

MEXICO BANS CATTLE FROM ALBERTA, CANADA

August 21, 2008 Billings, Mont. –

"Just today, we learned from a Canadian media source that Mexico has banned imports of live cattle from Alberta, and the Canadian Federal Agriculture Minister Gerry Ritz is reporting that Mexico is 'very concerned that if they're bringing in an older breeding animal, that they may be importing BSE,'" R-CALF USA CEO Bill Bullard pointed out. "This action by Mexico clearly shows that despite what USDA says, our export customers continue to have serious concerns about cattle from Canada."

Note: To view this entire news release visit www.r-calfusa.com.

MORE INSIDE

BSE: OIG Confirms Producers' Concerns	2
BSE: Canada's Latest BSE Case Cause U.S. Cattle Prices to Drop	3
Trade: Common Sense Prevails Over NCBA 'Free Trade' Rhetoric	3
NAIS: USDA Urged Yet Again to Reallocate from NAIS Budget Funds to...	4
NAIS: Groups Urge Congress to Immediately Halt Any Further...	5
COOL: At First Glance, Cattle Producers Pleased with Interim COOL Rule	6
11,054 Cattle Operations in 30-County Area will be Impacted if U.S. Air...	6
CEO Breaks Silence Regarding Director Shake-up	7

OIG CONFIRMS PRODUCERS' CONCERNS: USDA NOT ADEQUATELY PROTECTING BORDERS AGAINST UNAUTHORIZED CATTLE IMPORTS

July 15, 2008 Billings, Mont. – In substantiation of allegations made by R-CALF USA against the U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) for failure to meet its statutory duty to protect the U.S. cattle herd against the introduction of foreign animal diseases, such as bovine spongiform encephalopathy (BSE) and bovine tuberculosis (TB), the USDA Office of Inspector General (OIG) has issued a hard-hitting audit report covering August 2006 through July 2007.

The report states in part: "APHIS' import controls are not sufficient to prevent, detect, or address the entry of animals that do not meet import requirements (pg. 6)." The OIG also states it found that APHIS' "animal import procedures were not sufficient to prevent unauthorized shipments (of live animals) into the United States (pg. 13)," and that APHIS' current practice of allowing shipments of Mexican cattle into the U.S. – even after an animal in the shipment was rejected for health concerns, and without confirming the status of that animal – "is not in compliance with regulatory requirements (pg. 22)." The OIG points out this is a critical issue, given that the OIG previously had found that "75 percent of the bovine infected with TB found in the United States were imported from Mexico (pg. 21)."

"For the past five years, R-CALF USA has been *the lone voice* in the U.S. cattle and beef industries that has been calling upon Congress and the judicial system to first accept, and then to correct, the fact that our own government is exposing U.S. consumers and our U.S. cattle herd to unnecessary and avoidable disease risks from imported cattle," said R-CALF USA President/Region VI Director Max Thornsberry, a Missouri veterinarian.

With respect to the OTM Rule, the OIG audit states the problems that the OIG found regarding compliance with APHIS' earlier (minimal risk region) rule "raise concerns with APHIS' controls over live animal imports and whether the controls are adequate to ensure compliance with import restrictions (contained in the OTM Rule) (pg. 10)..."

Additional Findings in the OIG audit include:

- APHIS does not have adequate processes in place to determine the extent of import problems nationwide when individual violations are identified by field units (pg. 6).
- APHIS does not have effective systems or controls for approving and/or tracking live animals into and through the United States (pg. 6).
- The OIG found cattle entered the United States that did not meet import requirements (pg. 7).
- The OIG found 145 indications of non-compliance with the 2005 minimal-risk region rule (pg. 8).
- APHIS officials did not sufficiently document import problems (pg. 9).
- Animals entered the United States without APHIS inspection (pg. ii).
- During FYs 2005 and 2006, 161 animal shipments gained unauthorized entry into the United States (pg. iv).
- APHIS did not ensure that all restricted cattle or swine arrived at an approved slaughter establishment (pg. 16).
- APHIS could not account for more than 14,000 official USDA seals at five area offices (pg. 25).
- APHIS failed to re-inspect slaughter establishments that imported live animals, as is required every six months by APHIS protocols to prevent the dissemination of animal diseases (pg. 29).
- Over 142,000 cattle and swine from Canada were slaughtered in U.S. slaughtering establishments without APHIS ensuring that proper import protocols were in place (pg. 29).

"Because this official laundry list of serious infractions and failures clearly demonstrates USDA-APHIS has put both U.S. consumers and the U.S. cattle herd in danger, we renew our requests to Congress for the immediate repeal of each of APHIS' BSE rules that currently allow live animal imports from Canada," Thornsberry emphasized. "R-CALF also calls for immediate import restrictions on Mexican cattle until Mexico effectively controls its ongoing TB problem."

Note: To view this entire news release and the OIG Audit Report, visit www.r-calfusa.com.

CONCERNS ABOUT CANADA'S LATEST BSE CASE CAUSE U.S. CATTLE PRICES TO DROP

August 21, 2008 Billings, Mont. – Bloomberg News reported on Tuesday that, "Cattle fell to the lowest price this month on speculation that export demand for U.S. beef will slow after neighboring Canada last week reported its 14th case of mad cow disease since 2003..."

R-CALF USA CEO Bill Bullard said Canada's most recent BSE case was in a 6-year-old Alberta beef cow born years after Canada implemented its 1997 feed ban, and years after the March 1, 1999, date that USDA established as the birth date after which Canadian cattle can be imported to the United States. This latest BSE case, and the seven other Canadian BSE cases born after March 1, 1999, along with all of their herd mates, meet the age requirements established in the U.S. Department of Agriculture's (USDA's) over-30-month rule (OTM Rule) for export to the United States.

"The OTM Rule implemented on Nov. 19, 2007, that allows such higher-risk Canadian cattle into the U.S., is having a greater negative impact on U.S. cattle producers than USDA led the public to believe. In addition to the harm arising from knowingly importing Canadian cattle born while the BSE agent was still circulating in Canada, USDA said its OTM rule would cost U.S. cattle producers \$66 million per year, but this cost was based on the agency's low estimate that only 75,000 older cows and bulls would be exported to the U.S. from Canada in all of 2008," Bullard said.

"As of August 16, 2008, Canada has exported 116,309 cows and bulls to the United States," he continued. "This demonstrates just how out of touch USDA is regarding the U.S. cattle industry, and how unreasonable its predictions have been."

Bullard said it is counterintuitive that U.S. cattle prices would be falling at a time when domestic cattle supplies remain low. The OTM Rule is a primary contributor to this phenomenon.

Note: To view this entire news release and more information about BSE visit www.r-calfusa.com.

COMMON SENSE PREVAILS OVER NCBA 'FREE TRADE' RHETORIC; APPROPRIATIONS COMMITTEE APPROVES FMD BILL

July 17, 2008 Washington, D.C. – Sen. Tim Johnson's bill titled "The Foot and Mouth Disease Prevention Act of 2008" has passed the Appropriations Committee and will now go to the Senate for a floor vote. Since January 2007, the U.S. Department of Agriculture (USDA) had proposed to allow into the U.S. imports of higher risk cattle and beef products from Argentina, a country that is not considered free of foot-and-mouth disease (FMD).

"Since March of 2007, R-CALF USA has been actively involved in securing legislation that would prohibit any imports from Argentina because of its recent history of FMD, and we would like to sincerely express our thanks to both Senator Johnson, D-S.D., and Senator Mike Enzi, R-Wyo., who sponsored this bill, and the many co-sponsors who also took the lead on this important matter, as well as the leaders on the House side who are also taking action to prevent the introduction of FMD into the United States," said R-CALF USA President/Region VI Director Max Thornsberry, a Missouri veterinarian who also chairs the group's animal health committee.

Just yesterday, the National Cattlemen's Beef Association (NCBA) – a group that claims to represent cattle producers – urged Congress in a memo to vote in opposition of the FMD prevention measure so that USDA would have sole discretion on Argentine imports.

"USDA has been abusing its discretionary authority by allowing its goal of promoting more imports into the U.S. to trump its primary responsibility to protect the U.S. against the introduction and spread of foreign animal diseases," said R-CALF USA CEO Bill Bullard. "We are genuinely pleased that Congress is stepping forward to ensure that needed disease protections remain in place.

"It is time to restore the United States' reputation of producing the most wholesome and safest beef in the world, and under the best of conditions, which means we must strengthen our import standards, not weaken them," Bullard emphasized.

Note: To view this entire news release and NCBA's memo, visit www.r-calfusa.com.

USDA URGED YET AGAIN TO REALLOCATE FROM NAIS BUDGET FUNDS TO CONTINUE BRUCELLOSIS VACCINATION, SURVEILLANCE

June 25, 2008 Billings, Mont. – Recent discoveries of brucellosis in a cow near Paradise Valley, Mont., and in cattle from a Daniel, Wyo., ranch have prompted the R-CALF USA Animal Health Committee and the R-CALF USA Animal Identification Committee to – yet again – request that the U.S. Department of Agriculture (USDA) keep brucellosis vaccination and surveillance programs in place across the U.S., and to pay for such activity by diverting funds from the agency's National Animal Identification System (NAIS). R-CALF USA also requests USDA to implement and fund brucellosis surveillance in all other states where cattle are present, but no formal testing program is in place.

"There are a number of states that have just stopped any kind of brucellosis testing, which in my opinion, is not very forward-thinking because brucellosis certainly isn't going to disappear just because surveillance stops," said R-CALF USA President/Region VI Director Max Thornsberry, a Missouri veterinarian, who also chairs the group's animal health committee.

In a letter from USDA to R-CALF USA dated Jan. 3, 2007, USDA Under Secretary for Marketing and Regulatory Programs Bruce Knight stated that since surveillance for brucellosis began in 1956, "124,000 affected herds were found in the United States as a result of testing. By 1992, this number had dropped to 700, and as of October 31, 2006, no known affected domestic cattle or bison herds remained in the entire United States," – a point that proves testing should continue, in light of the new cases detected in Wyoming and Montana, Thornsberry said.

"USDA keeps cutting back on money for brucellosis testing, yet continues to sink millions and millions of taxpayer dollars into NAIS, trying to force NAIS down our throats," Thornsberry continued. "Well, NAIS is not going to keep a cattle producer from losing his herd if those cattle get brucella. NAIS is not going to reduce the need to test for brucellosis. The disease *will* eventually show up, as it has in Montana and Wyoming, and if USDA doesn't test for it, how will a producer know they have it until it's too late?"

Knight also stated that "...for *participating* {emphasis added} producers, NAIS would enhance rapid tracing capability in the event of a future brucellosis detection." The Wyoming cattle that first tested positive for brucellosis recently were quickly and efficiently detected through a longstanding tradition of veterinary services at an auction barn – not because of a costly and burdensome 48-hour electronic traceback system, nor by a method encouraged by USDA's Knight: "an official NAIS device – for example, an approved radio frequency identification device."

Thornsberry states in his June 26, 2008, letter to Knight that he believes it is critical to maintain testing at livestock auction barns because many of the cattle that go through the market system don't end up going to slaughter, but back to someone's farm."

"How would you like to have a positive cow that you bought at a livestock auction that wasn't tested and you take it back home and two years later, you've got a dozen cows infected," he asked. "R-CALF simply wants to point out to USDA that it needs to maintain brucellosis surveillance and vaccination programs around the country, and we are urging USDA to take the millions of dollars it's pumping into NAIS and utilize those funds to *prevent* the spread of diseases like brucellosis."

Note: To view R-CALF USA's letter to Knight and Donch, visit www.r-calfusa.com.

Listen to an audio
update from
R-CALF USA CEO
Bill Bullard.
Recorded weekly, free,
24 hours/day.
CALL NOW!
1-877-99-RCALF
(72253)

GROUPS URGE CONGRESS TO IMMEDIATELY HALT ANY FURTHER ADVANCEMENT OF NAIS; ALSO REQUEST OVERSIGHT HEARING TO INVESTIGATE NAIS ACTIVITIES

July 23, 2008 Washington, D.C. – In formal correspondence sent to the leaders of the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform, two national groups and nine others – all from different states – requested that Congress immediately halt any further advancement of the National Animal Identification System (NAIS) and to conduct an oversight hearing on the U.S. Department of Agriculture's (USDA's) NAIS activities to carefully and deliberately investigate the full ramifications of USDA's NAIS-related actions and proposals.

The groups – R-CALF USA, South Dakota Stockgrowers Association, Independent Cattlemen of Nebraska, Independent Cattlemen of Iowa, Independent Cattlemen of Wyoming, Buckeye Quality Beef Association, Oregon Livestock Producers Association, Colorado Independent CattleGrowers (sic) Association, Kansas Cattlemen's Association, Independent Beef Association of North Dakota and the Cornucopia Institute – assert that:

*** USDA has misrepresented Privacy Act protections to U.S. livestock producers when as early as August 2006, former Agriculture Secretary Mike Johanns assured producers their information was protected under the Privacy Act and could not and would not be released, which was false.**

USDA did not attempt to secure NAIS data under the Privacy Act system of records until April 30, 2008. Additionally, it remains uncertain as to whether such records are entitled to Privacy Act protections.

*** USDA has improperly acquired premises registrations by registering premises without farmer or rancher consent.** Evidence shows there are likely thousands of citizens whose premises were registered in the NAIS directory against their will or without their knowledge. In Idaho, for example, citizens' information was obtained by tapping into the state's brand database and summarily assigning numbers to brand owners. Also, improper tactics have been directed at minors involved in 4-H to secure NAIS registrations. There-

fore, USDA cannot claim that NAIS is voluntary when its own cooperators and contractors are mandating NAIS participation.

*** Several states have found it necessary to pass legislation to protect citizens from USDA's NAIS-related advances that promote government-sanctioned animal identification systems.** Nebraska passed a law that provides a formalized procedure for citizens to withdraw their premises registrations should the state establish an NAIS-type animal identification system. Kentucky passed a law to prevent release of its citizens' confidential information for the purposes of NAIS. Arizona passed a law to prohibit the state from mandating, or otherwise forcing, participation in NAIS. Missouri passed a law to prohibit the state from mandating, or otherwise forcing, citizens to comply with NAIS premises registration and to authorize citizens to withdraw from NAIS at any time.

*** USDA is proceeding without regard to stakeholder cost, liability and confidentiality concerns.** Livestock producers already operate on extremely tight profit margins and there have been no studies to determine if NAIS is economically feasible for family farmers and ranchers. The Food and Agricultural Policy Research Institute (FAPRI) predicts economic returns to producers will remain negative and could hit -\$51.87 per cow by 2012. USDA also claims the sole purpose of NAIS is to have the information to trace an animal disease incident within 48 hours. However, in its Business Plan to Advance NAIS, USDA states it intends to assist meatpackers in transferring NAIS information to carcasses.

*** USDA's ongoing NAIS activities usurp congressional authority and potentially violate Administrative Procedures Act rules.**

"R-CALF and many other groups have repeatedly appealed to Congress to cease any further advancement of NAIS, but our requests have gone unheeded. Now we are respectfully, but strongly, urging Congress to immediately halt further advancement of NAIS and to conduct an oversight hearing on USDA's NAIS activities so that the full ramifications of USDA's NAIS-related actions can be carefully and deliberately investigated,"

AT FIRST GLANCE, CATTLE PRODUCERS PLEASSED WITH INTERIM COOL RULE

July 29, 2008 Billings, Mont. – R-CALF USA was pleased to see in the new Interim Final Rule for mandatory country-of-origin labeling (COOL), that, at a glance, the U.S. Department of Agriculture (USDA) presented, for the most part, a simplified and workable rule for independent U.S. cattle producers.

“USDA did a rather straightforward job in writing these rules,” said R-CALF USA COOL Committee Chair Mike Schultz. “The agency accepted R-CALF USA’s and other groups’ recommendation to simplify the implementation process by adopting the steps it originally incorporated in the fish and shellfish rules.

“For the most part, USDA properly adopted the legislative language that minimizes requirements on producers and other suppliers by allowing them to use their own affidavits to prove an animal’s origin, and the rule allows meatpackers to use foreign import markings to verify animals of foreign origin, such as ear tags and brands on cattle from Mexico and Canada,” he continued.

Schultz also said that USDA requires every person in the supply chain to maintain COOL records for one year, for one step forward and one step back in the supply chain.

“For instance, a cow/calf producer would need to maintain records of who they sold their cattle to, and that person would need to keep records about who he or she purchased the cattle from and then who he or she sold them to,” Schultz explained. “That way, if needed, origins can be traced throughout the supply chain.”

The rule is expected to be published in the Aug. 1 *Federal Register*, and the public will have 60 days from the date of publication to submit comments to the agency.

“R-CALF USA continues to review the 233-page rule and will make recommendations to the agency if it finds areas within the rule that require additional clarification or modification in order to ensure the orderly implementation of COOL,” Schultz concluded.

11,054 CATTLE OPERATIONS IN 30-COUNTY AREA WILL BE IMPACTED IF U.S. AIR FORCE EXPANDS TRAINING COMPLEX

August 6, 2008 Billings, Mont. – R-CALF USA provided to the U.S. Air Force (USAF) comments regarding the USAF’s plan to triple the size of the Powder River Training Complex (PRTC). Thirty counties in southeastern Montana, southwestern North Dakota, northwestern South Dakota, and northeastern Wyoming would be impacted by the planned expansion.

R-CALF USA submitted factual information on the cattle industry in this region to ensure that the USAF fully understands the importance this region has on the nation’s beef supply and to encourage the USAF to consider other options with which to achieve its training objectives that would not subject this important livestock production region to increased risks.

These 30 counties support 11,054 individual ranching operations that control 32,423,578 acres of vital pastureland used to maintain approximately 1,831,100 cattle and calves, which represents more cattle and calves than are maintained in the entire state of either Wyoming or North Dakota, and is more than twice the number of cattle maintained in the entire state of Utah, where the USAF currently conducts training operations. The annual cash receipts from livestock production in these 30 counties total approximately \$885,699,000 annually. Livestock production in this area also helps to ensure the U.S. remains largely self-sufficient in the production of red meat – an important factor in maintaining the nation’s food security.

R-CALF USA requested in its comments that the USAF scientifically and quantitatively evaluate several potential risks that could affect cattle production in the region, including the risk to livestock health from sonic shock bursts, the risk to livestock productivity from increased stress, the risk to livestock fences, facilities and livestock handlers from agitated livestock, and the risk of fires caused by the deployment of flares.

**CEO BREAKS SILENCE REGARDING DIRECTOR SHAKE-UP;
EXTENDS OLIVE BRANCH TO END LAWSUITS
AGAINST FORMER DIRECTORS**

Statement by R-CALF USA CEO Bill Bullard

August 21, 2008 Billings, Mont. – “R-CALF USA experienced a shake-up in early 2007. Driven by member-established policy, the majority of its directors had officially demanded that USDA (U.S. Department of Agriculture) not issue the over-30-month (OTM) Rule concerning BSE (bovine spongiform encephalopathy) because USDA failed to disclose its plan to allow both OTM cattle and OTM beef into the United States. The seated president and a minority of directors disagreed and took steps that reversed R-CALF USA's official action. This led to a vote by the board of directors to unseat the president. Resignations by the president, three additional board members and several committee chairs followed.

During the next 18 months, R-CALF USA worked to reinstate its member-established position that the OTM Rule must be stopped, in part because the agency brazenly failed to disclose its true intentions. In July 2008, a federal court agreed and ordered USDA to open a new rulemaking to disclose the agency's true intentions.

While R-CALF USA fought to stop the OTM Rule, departed directors and committee chairs formed a new organization to compete against R-CALF USA. One committee chair also claimed ownership of R-CALF USA's magazine. When R-CALF USA learned about a plan to use the organization's confidential membership list to solicit members away from R-CALF USA, and when confidential employee documents surfaced on the Internet, the R-CALF USA board of directors – in fulfilling its fiduciary duties to the organization – was compelled to file two lawsuits in state court to protect the proprietary information of its members and its organization.

The lawsuits initially worked. R-CALF USA's rights to its magazine were restored, confidential employee documents were removed from the Internet, and R-CALF USA's confidential membership list was protected by a court order prohibiting any unauthorized use. Recent decisions by the state court would make it difficult for R-CALF USA to obtain any further relief without pursuing a protracted appeal that could take years to resolve.

Upon obtaining the July 2008 federal court decision on the OTM Rule that corrected the departed directors' efforts to undermine R-CALF USA's member-established policy, R-CALF USA had achieved the most important purposes of its pending lawsuit against its former directors. And, R-CALF USA remains well positioned in its ongoing legal challenge of the OTM Rule.

R-CALF USA has now offered to settle its lawsuit against the departed directors in full if the departed directors merely agree to return, destroy or otherwise not use R-CALF USA's confidential documents, including its membership lists, for any purpose.

As a result of this experience, the R-CALF USA board of directors enacted new policies to ensure the protection of its members' and employees' confidential information, as well as its confidential information concerning specific legal strategies.”

SIGN UP A NEW MEMBER TODAY!

Do you own cattle? Yes No

R-CALF USA Membership
1 year \$50/member _____

3 years \$140/member _____

Name _____

Company _____

Address _____

City _____

State _____ Zip _____

County _____

Phone _____

Fax _____

E-mail _____

Credit Card # _____

Security Code _____ Exp. Date _____

Signature _____

Membership Information is kept confidential, and is used for official R-CALF USA purposes only.

- Voting members must own cattle. Annual voting dues are \$50 per year per member (one-member/one-vote).
- Associate members do not own cattle and do not have voting rights.

Please mail application and dues (check, money order, or credit card information) to:

**R-CALF USA
PO Box 30715
Billings, MT 59107**

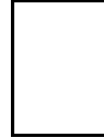
Contributions or gifts to R-CALF USA are not tax deductible as charitable contributions. However, they may be tax deductible as ordinary and necessary business expenses.



Fighting for the U.S. Cattle Producer!

E-mail: r-calfusa@r-calfusa.com
Website: www.r-calfusa.com

Phone: 406-252-2516 ♦ ♦
Fax: 406-252-3176



Cattlemen's Newsletter

United Stockgrowers of America

R-CALF USA
PO Box 30715
Billings, MT 59107

Thank you for your support!