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Sent Via Facsimile

January 31, 2008

The Honorable Tom Harkin
Chairman
Senate Committee on Agriculture,
Nutrition and Forestry
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Collin Peterson
Chairman
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

The Honorable Saxby Chambliss
Ranking Member
Senate Committee on Agriculture,
Nutrition and Forestry
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Bob Goodlatte
Ranking Member
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Re: Court Decision Heightens Need for Prohibition on Packer Ownership of Livestock

Dear Chairmen Harkin and Peterson and Ranking Members Chambliss and Goodlatte,

The recent 8th U.S. Circuit Court of Appeals (8th Circuit) decision in *Schumacher et al. vs. Tyson Fresh Meats et al.* demonstrates the compelling need for Congress to immediately adopt the prohibition of packer ownership of livestock contained in the Senate version of the 2007 Farm Bill. This 8th Circuit decision, filed on Jan. 29, 2008, has erected yet another barrier for producers who have been harmed by the acts and practices of large meatpackers that result in the manipulation and control of cattle prices. The 8th Circuit has interpreted the Packers and Stockyards Act, specifically section 202(e), as requiring producers to prove not only that an act or practice of the meatpackers resulted in unlawful price manipulation or control, but also, producers must now prove that the meatpackers *intentionally* engaged in such unlawful conduct.

This new requirement places an untenable burden on livestock producers who are harmed by livestock prices that are artificially lowered by the meatpackers' use of packer-owned livestock. And, this reality is explicitly revealed in the 2007 Grain Inspection Packers and Stockyards Administration study, commonly known as the RTI Study. The RTI study found, for example, at Volume 4, page 2-41, that each 1 percent increase in packer-owned hogs *causes* a 0.24 percent decline in hog prices. Based on the study's finding that approximately 20 percent of hogs marketed are packer-owned, the negative price impact for producers is \$2.16 per cwt., or \$6.05 per hog. Numerous studies have found that such a negative relationship also occurs with cattle.

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Unless Congress itself immediately amends the Packers and Stockyards Act to prohibit the anti-competitive practice of packer ownership of livestock by the largest meatpackers that use packer-owned livestock to effect lower prices paid to producers, producers will have no recourse and no protection against the resulting manipulation and control of prices. Without congressional action to make this practice unlawful, producers damaged by lower prices caused by packer-owned livestock are left completely without a remedy.

It is an untenable burden for producers who now would have to prove that packers intentionally used their own livestock to lower livestock prices, even though USDA itself has found that the practice of packers owning livestock – without regard to intent – has the *effect* of lowering prices, and moreover, the practice of packer-ownership by the largest packers is currently deemed by Congress to be lawful.

Congress has the opportunity within the next few weeks to clarify its intent to preserve open and competitive livestock markets, unrestricted by the acts and practices of the highly concentrated meatpacking sector, so that U.S. farmers and ranchers who raise and sell livestock continue to have the opportunity to be profitable.

Please note that the U.S. cattle industry is in a serious state of contraction, both in terms of the number of independent cattle operations and in terms of the size of the U.S. cattle herd. Since 1980, nearly 40 percent of the 1.6 million cattle operations in the U.S. have ceased operations, and the U.S. herd size is more than 15 million head smaller than it was 25 years ago.

On behalf of the 12,000-plus members of R-CALF USA in 47 states, please fight aggressively for the adoption of the prohibition on packer ownership of livestock, along with the other meaningful competition reforms currently contained in the Senate version of the 2007 Farm Bill.

Sincerely,

A handwritten signature in cursive script that reads "R. M. Thornsberry D.V.M." with a stylized flourish at the end.

R.M. Thornsberry, D.V.M.
President, R-CALF USA Board of Directors

Cc: Members of U.S. Congress