March 16, 2015

The Honorable Pat Roberts
Chairman, Senate Committee on Agriculture, Forestry and Nutrition
326A Russell Senate Office Building
Washington, DC, 20510

The Honorable Debbie Stabenow
Ranking Member, Senate Committee on Agriculture, Forestry and Nutrition
326A Russell Senate Office Building
Washington, DC, 20510

The Honorable Michael Conaway
Chairman, House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

The Honorable Collin Peterson
Ranking Member, House Committee on Agriculture
1010 Longworth House Office Building
Washington, DC 20515

Honorable Tom Vilsack
United States Secretary of Agriculture
1400 Independence Ave. SW
Washington, D.C. 20250

Via Fax and E-mail: 202-228-2125; AgRepublicanPress@mail.house.gov; 202-225-0917; agriculturedemocrats@mail.house.gov; 202-225-8510; agsec@usda.gov; 202-720-6314.

Re: Request to Reject the 2015 Proposal by the Beef Checkoff Enhancement Working Group; to Withdraw Support from that Group; to Conduct an Investigation; and to Adopt Specific Recommendations

Dear Chairman Roberts and Conaway, Ranking Members Stabenow and Peterson, and Secretary Vilsack:

On September 11, 2014, many of us, the undersigned organizations, sent you a joint letter urging you to reject the 2014 memorandum of understanding (MOU) by the Beef Checkoff Enhancement Working Group (Industry Working Group). Instead, we urged you to immediately implement the recommendations we offered that would eliminate the conflicts of interest within the Beef Checkoff Program and put us on a reform path that would allow U.S. cattle producers to begin using their mandatory checkoff contributions to promote their exclusively USA beef.
Today, unfortunately, no perceptible progress has been made on our urgent recommendations and the Industry Working Group has been empowered to recirculate yet another MOU. Like the group’s previous proposal, the new proposal again focuses on the group’s self-serving goal of increasing the current $1 per head mandatory checkoff assessment to $2 without addressing any of the blatant conflicts of interest that continue to plague the program.\(^1\)

The Industry Working Group was sanctioned by you in 2011 upon your official assignment of the Deputy Administrator of the Livestock, Poultry and Seeds Program, Dr. Craig Morris, to work with the group. At that time the group arguably represented a cross-section of U.S. cattle producers that were subject to the mandatory assessment. While under USDA’s watch, however, the largest producer-only national cattle trade association, R-CALF USA, was expelled by the group’s members and the second-largest general farm organization in the United States, the National Farmers Union (NFU), voluntarily withdrew from the group. As a direct result, the USDA-sanctioned Industry Working Group is no longer representative of the U.S. live cattle industry.

Alarmingly, news reports such as the one attached to this letter indicate that the USDA-sanctioned Industry Working Group intends to maintain its closed ranks by reserving for itself the exclusive right to elect members to its proposed nominating committee. Further, only organizations approved by it would have the opportunity to participate in the groups’ proposed nominating process. The USDA should not continue to be a party to the self-serving strategy now being pursued by the Industry Working Group.

We are also concerned that the attached article suggests that the checkoff-funded Federation of State Beef Councils (Federation) supports and actively proposed the changes to the Beef Checkoff Program as outlined in the Industry Working Group’s memorandum of understanding. This support and promotion by the Federation, therefore, includes the MOU’s proposals to amend the statute, the Beef Promotion and Research Act of 1985 (Act). The Act, however, expressly prohibits any checkoff funds from being used “in any manner” for the purpose of influencing any governmental action or policy other than recommending amendments to the Beef Promotion and Research Order (Order). It appears to us that the Federation’s reported actions of recommending changes to the Act itself are unlawful. We ask that you investigate this matter and that you take decisive action to ensure compliance with the Act.

\(^1\) Note that evidence shows that producers subject to brand laws are paying a disproportionate share of checkoff contributions because producers not subject to checkoff-collecting brand inspections ostensibly choose not to pay the assessment when making country sales. For example, anecdotal evidence for 2013 shows that producers subject to western Nebraska brand laws paid $450,000 to the Beef Checkoff Program while producers in Nebraska’s non-brand area paid only $4,200. This indicates that if the current assessment were properly enforced, the Beef Checkoff Program would realize a substantial increase in revenues without increasing the current rate.
Like the previous version, the new MOU fails completely to address the Beef Checkoff Program’s two most offensive and glaring conflicts of interest: First, the Federation with veto power and weighted approval authority over checkoff applications is housed, administered, owned and controlled by the National Cattlemen’s Beef Association (NCBA), which is the principal financial benefactor of the Federation’s approval decisions. Second, the NCBA materially strengthens its political advocacy effectiveness by i) using checkoff funds to offset, if not directly subsidize, its organization’s overall administrative costs such as salaries, expenses and travel and ii) aligning itself under the mantle of the Beef Checkoff Program to assume the program’s attendant positive brand identification that then accords NCBA a distinct lobbying advantage on Capitol Hill and in the countryside.

For the reasons stated in our original September 11, 2014 letter and expanded upon above, we again urge you to officially reject the Industry Working Group’s new MOU and to, instead, immediately initiate the following actions to eliminate the conflicts of interest currently plaguing the Beef Checkoff Program and to restore its purpose of being an equal and non-ideological benefit to all producers:

1. Enforce the prohibition against conflicts of interest in contracting and all other decision-making operations of the Beef Checkoff Program. Such enforcement would include, for example, a prohibition against any member of the Beef Promotion Operating Committee voting to award checkoff funds to any private organization of which the member is personally affiliated.

2. Enforce a prohibition against the Beef Checkoff Program contracting with organizations that engage in policy-oriented activities, including influencing governmental action, policy or elections.

3. Building on the recommendation in your letter of May 17, 2010, require a legally independent Federation, without affiliation to NCBA or any other private entity.

Additionally, we ask that you cease your Department’s support of the Industry Working Group and that you initiate an investigation to determine if any checkoff funds have been used in any manner by the Federation or any other checkoff-funded entity or official to support or promote making changes to the Act.

Please contact Bill Bullard at 406-252-2516 so that we may inform the below-listed organizations about your decision.

Sincerely,

American Agricultural Movement, Inc.
American Grassfed Association
Ashtabula Geauga Lake Counties Farmers Union (OH)
Buckeye Quality Beef Association, Inc. (OH)
California Farmers Union
Cattle Producers of Louisiana
Colorado Independent Cattle Growers Association
Family Farm Defenders
Farm and Ranch Freedom Alliance
Food & Water Watch
Independent Cattlemen of Nebraska
Independent Cattlemen of Wyoming
International Texas Longhorn Association
Missouri Farmers Union
Missouri Rural Crisis Center
Murray County, Oklahoma, Independent Cattlemen’s Association
National Association of Farm Animal Welfare
National Farmers Organization
National Latino Farmers & Ranchers Trade Association
Nebraska Farmers Union
Nebraska Women Involved in Farm Economics
Nevada Live Stock Association
Northern Plains Resource Council
Northern Wisconsin Beef Producers Association
Ohio Farmers Union
Organization for Competitive Markets (OCM)
Powder River Basin Resource Council
R-CALF USA
Rocky Mountain Farmers Union
South Dakota Stockgrowers Association
Western Organization of Resource Councils

Attachment: Checkoff MOU Draws Support, Virginia Harris, DTN Progressive Farmer, Feb. 6, 2015
Checkoff MOU draws support

*DTN Progressive Farmer*
Virginia Harris
Feb. 6, 2015

The Federation of State Beef Councils is supporting a new proposal to increase the beef checkoff while making some changes to ways the beef checkoff would operate.

Jennifer Houston, vice-chair of the Federation of State Beef Councils, and Scott George, 2014 past president of the National Cattlemen's Beef Association, presented proposed beef checkoff changes during the Federation Forum meeting Thursday afternoon at the NCBA Cattle Industry Convention.

The changes were outlined in a Memorandum of Understanding last month sent to the eight members of the Beef Checkoff Enhancement Working Group by NCBA leaders. The agreement proposes increasing the current checkoff fee of $1 per head of cattle sold to $2 per head of cattle sold. The extra $1 would be assessed in the same way as the existing fee, with $0.50 going to the CBB and the state option to keep $0.50 for state checkoff efforts.

Under the plan, cattle producers would get to vote on whether to increase the beef checkoff before it would go into effect. Producers also would be able to request a refund of that additional fee, but not the current $1 fee, the MOU states.

Houston noted the draft MOU presented Thursday was the culmination of three years of work by the eight organizations that make up the Beef Checkoff Enhancement Working Group. "This is a true compromise. None of us got all of what we wanted."

The Federation executive board voted Tuesday to forward the MOU to the full Federation for a vote to approve the proposed changes. NCBA's policy committee will also need to approve the proposal within the MOU in order for NCBA to agree to sign the MOU at the working group's next meeting in March.
Checkoff funds are managed by the Cattlemen's Beef Board, which contracts with various organizations "to implement programs of promotion, research, consumer information, industry information, foreign marketing and producer communications" on behalf of American cattle producers.

Houston expressed support for the increased checkoff fee after noting the current $1 fee returned $11.20 in producer profits from 2006 to 2013.

One forum attendee expressed his support for the increased fee, adding "It's time to act before the secretary [of agriculture] gets his hands on it again." That reference was in regards to a proposal by Agriculture Secretary Tom Vilsack to create a separate checkoff last fall, a proposal that NCBA opposed and was eventually blocked by Congress.

The MOU also outlines proposed changes to the Beef Promotion Operating Committee (BPOC) and the committee that nominates members to that operating committee. The MOU proposes the Federation of State Beef Councils, the Cattlemen's Beef Board and the other organizations involved in the Beef Checkoff Enhancement Working Group would each contribute members to constitute the 21-member nominating committee. The member organizations that make up the working group who sign the MOU will be eligible to elect members to the nominating committee, and other national organizations could become eligible at the discretion of the working group. Currently, the nominating committee consists of eight members from the Cattlemen's Beef Board and seven members from the Federation.

The proposed nominating committee would then select nine members from the Federation and nine members from the Cattlemen's Beef Board, while the chairman from each group will automatically sit on the operating committee.

The operating committee plays a critical role because the committee develops the annual budget for the Beef Board and determines which organizations receive checkoff dollars.

George briefly outlined a timeline. The Beef Checkoff Enhancement Working Group meets in early March and each group should have an answer from their respective memberships about signing the agreement.
The proposal is not without its critics. Opposition has come from groups that have left the Beef Checkoff Enhancement Working Group, such as the National Farmers Union, and groups that have been blocked from participating, such as the Ranchers-Cattleman's Action Legal Fund, or R-CALF.

Should the eight groups now involved in the working group sign the MOU, they will then pursue action in Congress in late fall 2015 or spring 2016 to modify the Beef Promotion and Research Act of 1985. If passed by Congress and signed by the president, a referendum must be voted on by producers to ultimately approve the checkoff fee increase. All told, George expects the process to take three years if the all of the organizations involved in the Beef Checkoff Enhancement Working Group sign the agreement this spring.


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