Fighting for the U.S. Cattle Producer!

R-CALF USA

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Mr. Charles Herbster
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Sent via E-mail: herbsterangus@sentco.net

Dear Mr. Herbster:

Congratulations on your appointment as the National Chairman of the Agriculture and Rural Advisory Committee of the Donald J. Trump Campaign. On behalf of the thousands of independent U.S. cattle- and sheep-producing members of R-CALF USA, I cordially invite you to address our members at our upcoming, 17th Annual Convention to be held August 26-27, 2016, at the Little America Hotel in Cheyenne, Wyoming.

For background, R-CALF USA (Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America) is the largest national non-profit trade association that exclusively represents the interests of independent cattle producers in the multi-segmented beef supply chain. We are distinguished from other commodity groups by not having any multinational meatpackers seated on our governing board. R-CALF USA exclusively represents producers and no other segment of the supply chain.

As a non-profit association, R-CALF USA is prohibited from participating in any political campaign. Consequently, our invitation must contemporaneously limit your participation and attendance to that of gathering information from our cattle- and sheep-producing members and explaining to them how you would intend to address the issues specified below that are of paramount importance to our association. Also, I will extend an invitation to your counterpart in the Hillary Clinton Campaign whose participation would be subject to identical conditions.

R-CALF USA feels very strongly that each of the issues listed below must be resolved in the manner described if U.S. cattle and sheep produces are to remain both independent and competitive in their respective industries.

1. **Country of Origin Labeling:** Only with mandatory country of origin labeling (COOL) can domestic producers compete with foreign producers by creating a marketplace preference for beef produced exclusively from U.S. livestock. Without COOL, the marketplace remains uncompetitive – unable to transmit supply signals for any particular

country's livestock – and multinational packers can unilaterally decide from which country to source their beef and cattle to satisfy consumer demand. This gives multinational packers significant leverage with which to lower domestic cattle prices. Congress repealed COOL for beef and pork (but kept it for venison, chicken, seafood, fruits, vegetables and certain nuts) in late 2015. *Will you aggressively support the restoration of mandatory COOL that reserves the USA label only for beef and pork that is exclusively born, raised, and slaughtered in the United States?*

2. **GIPSA Rules:** The USDA Grain Inspection, Packers and Stockyards Administration (GIPSA) never promulgated rules to implement provisions in the 1921 Packers & Stockyards Act (P&S Act) that prohibit packers from engaging in unfair, unjustly discriminatory or deceptive practices, or from granting undue or unreasonable preferences or advantages. Nor did the agency write rules to establish that farmers and ranchers need not prove an injury to competition (a standard contained in earlier antitrust laws that Congress saw fit to strengthen for livestock producers) when seeking protection from the anticompetitive practices prohibited by the P&S Act. For several years, Congress has used the appropriations process to prevent the USDA from promulgating rules to implement the P&S Act. *Will you aggressively support the USDA's efforts to prevent anticompetitive practices in cattle and sheep markets by promulgating rules to fully implement the P&S Act?*

3. **Price Manipulation in Cattle Markets:** The U.S. poultry and hog industries are now vertically integrated by dominant meatpackers, resulting in the elimination of hundreds of thousands of independent poultry and hog producers (e.g., 90 percent of U.S. hog farmers exited the industry during the past three decades). The cattle industry is the meatpackers' Last Frontier. Meatpackers are now working to capture control over the feedlot sector of the live cattle supply chain, causing tens of thousands of independent cattle feeders to exit the industry since the mid-90s. Meatpackers are accomplishing this with captive supply cattle: unpriced cattle controlled by and committed to the packer prior to slaughter. Captive supply cattle facilitate price manipulation by shrinking the volume of cattle in the cash market, yet the value of captive supply cattle remains benchmarked to the cash market price. Thus, manipulation in the ultra-thin cash market becomes manipulation of captive supply prices. Captive supplies include cattle owned and fed by large packers; cattle controlled by and committed to packers through unpriced, formula-type contracts; cattle fed by cattle feeders that have agreed to provide cattle only to a particular packer; and cattle financed by large packers through intermediary feedlots. *Will you aggressively support legislation to stop the Big 4 meatpackers from using captive supply cattle to capture control of the live cattle supply chain away from independent cattle producers?*

4. **Antitrust Enforcement:** Past administrations have been unwilling to enforce antitrust laws even when mergers and practices within livestock industries are expected to reduce competition or when competition is actually reduced. The George W. Bush administration was the first and last administration in decades to enforce antitrust laws in

the cattle industry when it filed a 2008 action that blocked the world's largest beef packer – Brazilian owned JBS, from acquiring the nation's fourth largest beef packer – National Beef Packing Company. Since that time, several competition-reducing industry mergers and acquisitions have occurred without any challenge from the U.S. Department of Justice. The packing industry's claim that consumers benefit from the industry's ongoing consolidation and integration because efficiencies are gained through economies of scale remain uncritically accepted. This is the case even in the face of irrefutable evidence that the inflation-adjusted cost of transforming and delivering the raw product (*i.e*., cattle) to the consumer in the form of beef has been increasing at an alarming rate. Meaning that packers and retailers are continually receiving a disproportionate share of the consumers' beef dollar, at the expense of U.S. livestock producers. *Will you aggressively support the enforcement of U.S. antitrust laws to restore and preserve marketplace competition that has already been severely reduced within our livestock industries?*

5. **Livestock Disease Import Restrictions:** United States' taxpayers and livestock producers alike have invested considerable resources to eradicate and control dangerous livestock diseases from within U.S. borders. Unfortunately, many United States' trading partners have not. To accommodate more and more imports from developing countries that continue to harbor dangerous livestock diseases, the U.S. Department of Agriculture (USDA) is systematically dismantling the United States' livestock disease import restrictions, thus increasing the risk that dangerous diseases will be introduced into the United States. For example, the U.S. continually reintroduces bovine tuberculosis (TB) as a result of importing hundreds of thousands of Mexican cattle while bovine TB remains endemic in Mexico. Also, the USDA is preparing to allow fresh beef imports from Argentina, Brazil, and Namibia, Africa, despite the fact that the live foot-and-mouth disease (FMD) virus is known to exist in those countries. While the USDA claims the risk is low for introducing FMD from FMD-affected countries, as well as other dangerous diseases from other disease-affected countries, the consequence of an introduction of a foreign animal disease into the U.S. would be catastrophic – the National Academy of Sciences found that the economic cost of a U.S. outbreak of FMD would range from $9 to $50 billion. *Will you aggressively support the reinstatement of U.S. livestock disease import restrictions for countries that continue to experience outbreaks of contagious and transmissible diseases capable of inflicting severe economic harm to U.S. livestock industries?*

6. **Trade:** Unlike many farm commodity industries that are export dependent because they produce more of their respective commodities than can be consumed in the United States, the largest segment of U.S. agriculture – the U.S. live cattle industry, does not produce enough beef to satisfy domestic demand. Thus, while a small volume of imports is necessary to satisfy the domestic appetite for beef, excess imports cause oversupply and depressed prices. The cattle industry is particularly sensitive to changes in import volumes, in part because the long biological cycle of cattle prevents producers from responding quickly to changes in supply. All current and proposed trade agreements, including the Trans-Pacific Partnership (TPP) free trade agreement, ignore completely

the cattle industry's sensitivity to increased imports. None, therefore, contain any safeguards to protect U.S. cattle producers should import surges depress domestic cattle prices. Further, because all current and proposed trade agreements consider the origin of beef to be the country where the animal was slaughtered – not where the animal was born and raised, multinational meatpackers can bypass U.S. cattle producers by sourcing their cattle from anywhere in the world and then affixing a "Product of the USA" label on beef from those foreign-born/raised cattle for duty free shipment to trading partners. Another price-depressing aspect of all current and proposed trade agreements is that they have effectively lowered U.S. import standards. The U.S. is now inviting foreign meatpacking plants in developing countries to export beef to the U.S. even though those plants cannot meet food safety standards that are at least equal to those in the U.S. and even though the U.S. has ceased conducting monthly inspections of those foreign plants. The U.S. has amassed a horrendous deficit in the trade of cattle, beef, beef variety meats and processed beef with the 20 countries with which the U.S. currently has a trade agreement. The 25-year cumulative trade deficit with those 20 countries is an astounding $44.5 billion and was more than $4.3 billion in 2015 alone. As a result, current and proposed trade policies are reducing economic opportunities and draining considerable financial equity from U.S. live cattle producers. *Will you aggressively support the renegotiation of current trade agreements such as NAFTA and CAFTA and oppose the TPP to ensure that trade policies protect the supply-sensitive cattle industry, designate the origin of beef as the country where the animal was born, raised, and slaughtered, and provide the U.S. cattle industry a meaningful opportunity to achieve more balanced trade with its trade-agreement partners?*

7. **Beef Checkoff Program:** The national beef checkoff program is at the heart of what is perhaps the greatest hypocrisy in the history of the U.S. cattle industry. The beef checkoff program is a federal program that taxes cattle sold by U.S. cattle producers at the rate of $1 per head. The resulting cattle tax revenues total about $80 million per year and are collected by state beef councils that retain half the taxes and remit the other half to the national beef checkoff program. The national beef checkoff program then spends its half of the cattle tax revenues – approximately $40 million, to pay for what the U.S. Supreme Court has declared is "government speech." Most of the $40 million in cattle taxes received by the national beef checkoff program is paid to the National Cattlemen's Beef Association (NCBA), a lobbying organization that represents both multinational meatpackers and producers. The multinational meatpackers represented by the NCBA are also major cattle and beef importers. More than 82 percent of the NCBA's total funding is derived from the federal cattle tax. The NCBA's political mantra is its call to get government out of agriculture. The NCBA lobbies against cattle-producer initiatives such as country-of-origin labeling (COOL), writing rules to implement the Packers & Stockyards Act, banning packer ownership of livestock and prohibiting unpriced formula contracts, enforcing antitrust laws, and it has supported all current and proposed trade agreements that marginalize independent producers, all on the basis that it does not want the government involved in the cattle industry. Yet, the NCBA is the single-largest benefactor of the $80 million government-mandated cattle tax that funds government

speech. The cattle tax cross-subsidizes the NCBA's lobbying efforts, it promotes the anticompetitive message that beef is beef regardless of whether the cattle were born and raised in Honduras, Nicaragua, Mexico or the United States, and the federal government's audit determined that hundreds of thousands of cattle tax dollars were improperly spent by the NCBA. *Will you aggressively support the repeal of the National Beef Checkoff Program as it now exists or, alternatively, legislation that would: 1) prohibit any lobbying organization from contracting with the checkoff program; 2) allow U.S. cattle producers to promote USA beef; and/or 3) require the checkoff program to be purely voluntary?*

8. **Private Property:** When once it was considered "in the national interest" and "good public policy" to populate lands managed by the federal government in western states with as many cattle and sheep producers as the lands could economically and environmentally sustain, today's public policy is the antithesis. At least since the late 70s the federal government has initiated a systematic campaign to remove ranchers and their livestock from federally managed lands. The vested water and grazing rights owned by ranchers that continue to operate on federally managed lands are being impaired if not revoked, land-use restrictions are rendering some grazing lands uneconomical to operate, and laws pertaining to endangered species, conservation, and water are being interpreted and implemented in a manner that demonizes the very ranchers who, for generations, dedicated their lives to the stewardship of the air, land and water, for which their ranching operations were dependent. *Will you aggressively support a definite reversal of the federal government's ongoing campaign to curtail if not end grazing on federally managed lands by independent cattle and sheep ranchers and will you work to restore a cooperative, helpful, respectful and non-litigious relationship between federal land management employees and U.S. ranchers?*

9. **United States Sovereignty:** The previously discussed issues of country-of-origin labeling (COOL) (Item #1) and trade (Item # 6) are intrinsically linked to the self-imposed erosion of national sovereignty the United States is experiencing at the hands of the World Trade Organization (WTO). The WTO is the global, governing body authorized by trade agreements to adjudicate trade rules. In 2015 the WTO threatened the U.S. with an ultimatum to either repeal its domestic COOL law or face economic sanctions. Congress quickly capitulated and repealed the U.S. statute that required COOL for beef and pork. Alarmingly, the chief member of the WTO panel that issued the coercive ultimatum, and who ultimately succeeded in overturning a widely popular U.S. law, was not an independent judge. Instead, he was a Mexican national – a citizen of one of the two countries that brought the COOL complaint to the WTO. In the COOL dispute, the WTO turned basic rules of procedure and evidence and the requirement for an independent judiciary, which are all hallmarks of U.S. jurisprudence, on their head. The COOL matter demonstrates the U.S. is now subjecting its laws and lawmaking powers to a subverted WTO procedure whereby U.S. law becomes subservient to trade agreement rules as interpreted not by independent judges but by WTO panels. Further, the WTO's aggression towards the popular COOL law reveals the flawed processes established in

past and proposed trade agreements: the processes are much less about tariff reduction and much more about global governance, global standardization and global harmonization. *Will you aggressively support a U.S. withdrawal from the now established global process whereby U.S. law becomes subservient to trade agreement rules as interpreted by WTO panels?*

R-CALF USA firmly believes that the disposition of the foregoing nine issues will determine if the U.S. cattle industry will continue to be an industry comprised of hundreds of thousands of independent cattle farmers and ranchers who market their cattle in a robustly competitive marketplace. Or, will our U.S. cattle industry succumb to the command-and-control hog and poultry models in which the meatpacker (or integrator) will determine the genetics cattle producers must use if they want to market their livestock, the terms of production, and the terms of marketing.

Thank you for your consideration and we hope that you will accept our invitation to speak at our convention and that you will adopt our recommended reforms for the U.S. cattle and sheep industries and embrace them as your own.

Please let me know if R-CALF USA can be of assistance in the formulation of policies that will promote the interests of our independent cattle-and sheep-producing members.

Respectfully,

Bill Bullard

Bill Bullard, CEO