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August 3, 2009

The Honorable Tom Vilsack  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, D.C. 20250

**Re: R-CALF USA Comments in Docket No. APHIS-2009-0027, National Animal Identification System; Public Meetings**

Dear Secretary Vilsack,

On behalf of the thousands of cattle-producing members of R-CALF USA, we greatly appreciate your willingness to personally investigate the concerns raised by R-CALF USA and other groups regarding the previous Administration's proposed National Animal Identification System (NAIS). Below is a two-part comment for your consideration. Part I explains why NAIS is completely unacceptable to R-CALF USA members and additionally addresses each of the issues you have sought responses to in the *Federal Register* at 74 Fed. Reg., 20277-78. Part II provides a starting point for a coordinated state and federal plan that would enhance our nation's highly successful and time-proven preexisting disease programs without infringing on the rights and privileges of the states and their respective cattle-producing citizens.

In addition, R-CALF USA submits as part of these comments its written testimony on *Review of Animal Identification Systems* presented to the U.S. House of Representatives Committee on Agriculture, Subcommittee on Livestock, Dairy, and Poultry on March 11, 2009. R-CALF USA's testimony is attached hereto and fully incorporated herein as Attachment 1.

## **PART I**

### **THE NATIONAL ANIMAL IDENTIFICATION SYSTEM IS UNACCEPTABLE**

#### **1. NAIS is a fundamentally flawed system that would hamper disease investigations:**

- a. Disease investigations under NAIS would be completely dependent on access to an errorless NAIS electronic database – there is no built-in redundancy such as a visual code that would enable the narrowing of a disease investigation in the event of

inaccessibility to the database, loss of power, computer viruses, or inaccurate or corrupt data. This flaw would hamper disease investigations.

- b. Because NAIS does not associate cattle with their owners, but instead with the owner's property through "premises registration," NAIS does not immediately identify the disease response team associated with cattle – the state and local veterinarian and the cattle owner – who are the people with the actual records and information needed for all disease investigations. This flaw would hamper disease investigations.
- c. The NAIS "840" numbering system treats the 100 million-head U.S. cattle herd as a single universe of cattle, without providing any break-down into smaller universes based on our 50 separate state jurisdictions. This significant flaw would both jeopardize and hamper disease investigations.
- d. The requirement to report to the federal government each movement of cattle from one property to another is an over-the-top regulatory burden that would be a huge imposition on cattle owners and would require an entirely new government bureaucracy to administer. Such reporting would be highly susceptible to multiple errors due to the huge amount of data that would enter the system. Also, it completely ignores and duplicates the extensive tracking documents currently in use including interstate health certificates, brand inspection documents, backtags, sales receipts and other documents used in commerce. This requirement would overly complicate disease investigations and data entry errors could easily render disease investigations impossible.

**2. The costs of NAIS will worsen the ongoing and long-run lack of profitability for U.S. cattle producers:**

- a. According to USDA's own data, the average return to U.S. cattle producers for the past 12 years (1996-2007) was a loss of \$493.87 per bred cow per year.<sup>1</sup> When only operating costs, and not total costs of production, were calculated, the loss per bred cow per year was still \$6.42 during this period.<sup>2</sup> Therefore, *any* production cost increases caused by NAIS would accelerate the exodus of U.S. cattle producers, whom have already exited the industry at a rate of 19,000 cattle operations per year during the past 12 years.<sup>3</sup>

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<sup>1</sup> See Cow/Calf Production Costs and Returns Per Bred Cow, 1996-2007, Data Sets: Cow-calf, USDA Economic Research Service, available at <http://www.ers.usda.gov/data/CostsandReturns/testpick.htm>.

<sup>2</sup> See *id.*

<sup>3</sup> See Cattle, USDA National Agricultural Statistics Service, Mt An 2-1 (1-97), available at <http://usda.mannlib.cornell.edu/usda/nass/Catt//1990s/1997/Catt-01-31-1997.pdf>; See also Farms, Land in Farms, and Livestock Operations: 2008 Summary, USDA National Agricultural Statistics Service, Sp Sy 4(09), February 2009, at 14, available at <http://usda.mannlib.cornell.edu/usda/current/FarmLandIn/FarmLandIn-02-12-2009.pdf>.

**3. NAIS will render average-size and mid-size cattle producers uncompetitive vis-à-vis large-scale producers and will accelerate the ongoing exodus of U.S. cattle producers, leading to more concentration and vertical integration:**

- a. Two Kansas State University cost studies show that costs associated with NAIS are substantially lower for large-scale operations when compared to small- and mid-sized operations. For example, a spreadsheet published by KSU shows that costs of electronic identification for a herd size of 100 head (at a cost per head of \$15.90) are \$9.76 less when the herd size increases to 400 head.<sup>4</sup> Another KSU study also shows that costs per animal become substantially lower as operation size becomes larger – the average-sized U.S. cattle operation (with fewer than 50 head<sup>5</sup>) would experience costs that are \$2.12 higher per animal than would a producer with more than 50 head but fewer than 100 head.<sup>6</sup> Thus, the studies clearly show that NAIS would competitively disadvantage small- to mid-sized producers when compared to larger producers. This cost disparity will accelerate the ongoing concentration and vertical integration of the U.S. cattle industry.
- b. NAIS cost studies fail to include costs of upgrading facilities in order to accommodate scanner reading protocols. Many cattle operations use only minimal cattle-handling equipment (for example: horses, trailers, portable panels and portable chutes) to move cattle long distances and this equipment is not suitable for affixing eartags or ensuring accurate scanner readings. As a result, more elaborate and costly facilities would be required to meet NAIS standards and these upgrades would further create economic burdens on U.S. cattle producers.
- c. The cost/benefit analysis completed by Kansas State University (KSU) is fundamentally flawed: 1) There are approx. 95 million cattle in the U.S. cattle herd. The KSU study found that the average eartag price was \$2.25. Thus, the study's conclusion that the total cost of NAIS would be \$209 million would not even cover the price of one eartag for each head of cattle in the U.S. herd, let alone labor, equipment, and reading costs that would apply to each animal. 2) From 2000 through 2003, the U.S. slaughtered approx. 36 million head of fed cattle and cows and bulls each year.<sup>7</sup> Using the study's average NAIS cost per animal of \$5.97 per head, the study's conclusion that the total cost of NAIS would be only \$209 million per year would not even cover the cost of identifying each animal actually slaughtered during each of the four years in the middle of our current liquidation phase of the U.S. cattle

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<sup>4</sup> See RFID Cost.xls – A Spreadsheet to Estimate the Economic Cost of a Radio Frequency Identification (RFID) System, Version 7.6.06, available at [www.agmanager.info/livestock/budgets/production/beef/RFID%20costs.xls](http://www.agmanager.info/livestock/budgets/production/beef/RFID%20costs.xls).

<sup>5</sup> The average-sized U.S. cattle operation is 44 head, calculated by dividing the number of U.S. cows and heifers that have calved in 2008 (41,692,000) by the number of U.S. operations with cattle and calves in 2008 (956,500).

<sup>6</sup> See Table 2. Summary of RFID Costs for Beef Cow/Calf Operations by Size of Operation, Overview Report of the Benefit-Cost Analysis of the National Animal Identification System, USDA APHIS, April 2009, at 18.

<sup>7</sup> See Livestock Slaughter Annual Summary for years 2001-2003, USDA NASS, available at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1097>.

cycle, which cost would be \$219 million. Thus, the study erroneously assumes our U.S. cattle cycle is nonexistent and our herd size is static.

**4. NAIS violates rights and privileges of U.S. cattle producers that are protected by the U.S. Constitution, including, but not limited to, the expectation of privacy:**

- a. Nowhere in the Animal Health Protection Act – the act cited by USDA as granting it authority to implement NAIS – is USDA expressly authorized by Congress to impose NAIS on every citizen who owns cattle. USDA’s mere claim that its actions relate to animal health does not grant it carte blanche authority to exercise such an overarching extension of federal power as embodied in NAIS on every cattle owner in every state. Further, and because Congress has never expressly authorized such an overarching extension of federal power as NAIS on the citizens of each state, Congress has never addressed how NAIS’ impositions would square with the notion of limited, express, and enumerated powers embodied in Article I, Section 8, of the U.S. Constitution. Nor has Congress addressed how NAIS and animal health are squared with the Fourth Amendment guarantee that people will be “secure in their persons, houses, **papers and effects** against unreasonable searches and seizures. . .” (Emphasis added.)
- b. NAIS does not differentiate between cattle or cattle producers who are of negligible risk for disease outbreaks (such as cow/calf producers with closed herds) from producers who are of higher risk for disease outbreaks (such as feedlots with 500,000 head capacity). Instead, NAIS treats every animal and every cattle producer as if they were the subject of a disease investigation, requiring them to register their property and their livestock with the federal government and to report the movements of their animals.
- c. NAIS subjects every cattle producer, whether or not they are the subject of a disease investigation, to the potential for government intrusion of and on their private property. For example, the NAIS registration form for South Dakota states that the registrant’s information (and perhaps their real property) may be accessed for not only disease traceback purposes, but also for “animal health surveillance purposes.”<sup>8</sup> Nowhere does the registration form define or otherwise limit the scope of animal health surveillance purposes, though producers are expressly subjected to perjury penalties if the government were to find, for example, that the registrant’s information was not correct. Therefore, producers have no assurance that NAIS would not subject them to unwarranted searches or other invasions of their constitutionally protected rights.
- d. Because Congress did not pass a statute expressly authorizing USDA to implement NAIS, nor has USDA ever promulgated a rule to implement it, U.S. producers have no way of knowing the full extent of USDA’s intrusion upon their lives and

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<sup>8</sup> See April 29, 2009 R-CALF USA Letter to Secretary Vilsack with attached South Dakota premises registration form.

businesses. In addition, they do not know the penalties that they would be subject to for errors contained in the NAIS database or for failing to comply with any regulatory or policy requirement that USDA may later decide to impose.

- e. On December 5, 2008, R-CALF USA sent USDA 10 specific written questions concerning the agency's authority to require the registration of "premises" for each U.S. cattle producer and the ramifications therefrom. The agency did not respond to several of those questions and did not respond adequately to the few questions it did address in subsequent communications to R-CALF USA. Because U.S. cattle producers deserve to know the exact source of authority that USDA claims to have to implement NAIS, as well as the full ramifications of the NAIS program itself, R-CALF USA again requests that USDA provide a detailed response to each of the following questions:

1. What is the specific authority that grants USDA the power to register personal real property as a premises without prior consent, power of attorney in fact, or by persons lacking legal age or capacity?
2. Does registration of real property as a premises become a permanent assignment to the affected property?
3. Does registration of real property as a premises constitute a burden or encumbrance on the affected property?
4. Does registration of real property as a premises alter, impair, diminish, divest, or destroy allodial title of land patentees, or heirs or assigns?
5. Does registration of real property as a premises constitute a taking as defined in the 5<sup>th</sup> Amendment to the U.S. Constitution?
6. Will those affected by premises registration of real property be compensated for any taking, in what amount, by what standard of evaluation, and what frequency?
7. Does an agency memorandum, on premises registration of real property, stand as an act of law?
8. Where, by an Act of Congress as legislated within the bounds of Article I, Section 8 of the U.S. Constitution, has USDA been given authority to register real property as a premises or otherwise implement the National Animal Identification System?
9. Where in the U.S. Constitution is USDA given authority to register real property as a premises or otherwise implement the National Animal Identification System?

**10.** Will future land title and use of private real property be impacted by implementation of the National Animal Identification System, resulting in further Federal regulation or authority?

**5. The very structure of NAIS will facilitate the dissemination of proprietary and confidential information:**

- a. Feedlots, auction yards, and video auctions source their cattle from among the hundreds of thousands of independent cow/calf producers, backgrounders, and stockers. These sources of a specific kind and type of cattle are the proprietary information used by feedlots, auction yards, and video auctions to maintain competitiveness. NAIS would require all of these sources to register their property under a “premises registration” scheme and the contact information for each person who registers under the “premises registration” scheme would be disclosed to NAIS eartag manufacturer. It is a near certainty that highly concentrated meatpackers will begin collecting NAIS eartags from the kind and type of cattle they prefer and will obtain the sources of those cattle through eartag manufactures and other means to bypass feedlots, auction yards, and video auctions. They could then source cattle directly from the cow/calf producers, backgrounders, and stockers and place these cattle in their packer-owned feedlots. This would accelerate vertical integration and significantly reduce competition in the U.S. cattle industry.
- b. There is no statute that expressly protects the confidentiality of information collected under NAIS. Though a U.S. district court has found that a certain person was not authorized to access NAIS information, other persons may well be entitled to access. Potentially, any deep-pocketed meatpacker could potentially access the confidential NAIS data base through the U.S. judicial system by alleging, for example, improper origin identification for country-of-origin labeling compliance or that livestock were adulterated.

**6. NAIS would expose U.S. cattle producers to numerous liability claims:**

- a. Unfortunately, massive meat recalls have become commonplace and often include millions of pounds of beef. Based on a 750 pound carcass weight, each million-pound recall would involve beef from well over 1,000 head of cattle. It should be anticipated that each time a beef recall that involves beef contaminated with intestinal-borne pathogens is issued, the culpable party (the meatpacker that allowed safe meat to become contaminated with such pathogens) would attempt to transfer liability along the chain of custody of the cattle. As a result, U.S. cattle producers would likely incur substantial legal costs to defend themselves against numerous liability claims filed against them by the culpable party.
- b. NAIS’ presumption that the herd-of-origin of a disease suspect is the source of a disease outbreak (which is consistent with USDA’s goal of identifying the herd-of-

origin within 48 hours) would subject cow/calf producers to unwarranted liability for any disease detected in an animal that had left the herd-of-origin many months or perhaps many years prior to the outset of the disease. Thus, cow/calf producers would likely incur costs and liability for extensive testing of their entire herds even if the actual source of the disease was wildlife populations or foreign animals (such as Mexican cattle with bovine Tuberculosis) that had exposed the suspect animal after it had been sold by the cow/calf producer.

- c. Because USDA has failed to explain whether NAIS is a tool for disease eradication or simply a tool for disease control and management, there is no assurance that NAIS itself would not continuously perpetuate increased liability for U.S. cattle producers. USDA's ongoing actions of knowingly increasing the risk of BSE from imported Canadian cattle and bovine Tuberculosis and Mexican fever ticks from Mexican cattle suggest that the primary goal for NAIS is to control current and emerging foreign animal diseases that USDA intends to knowingly allow into the United States, rather than to prevent disease introduction and to swiftly eradicate those diseases that breach our preventive measures.
- d. U.S. cattle producers have not been informed about their potential liability for errors found in the NAIS database or for failure to comply with whatever future rule USDA may promulgate to administer and enforce NAIS. For example, it is not uncommon for livestock to disappear on U.S. farms and ranches due to predators, death, theft, hunters cutting fences or leaving gates opened, and fences broken by wildlife. Such disappearances would create unexplainable gaps in NAIS that would potentially subject cattle producers to liability for failure to report the movement and disposition of their cattle. This exposure to liability could, and would likely be, substantial.

**7. NAIS' "premises registration" scheme is unnecessary, intrusive, and counterproductive:**

- a. NAIS fails completely to recognize the differences between the numerous cattle production practices in the United States. Even though numerous cattle operations are inherently less susceptible to disease exposure and disease spread (for example: cow/calf producers with closed herds, backgrounders and stockers who feed only their own, and perhaps their neighbor's cattle, small producers far removed from cattle collection points, large producers who graze over expansive pastures) NAIS treats every producer as if their risk of disease exposure and disease spread is identical. Thus, requiring every producer to register their property in a federal database treats every producer as if they were the subject of a disease investigation.
- b. Because USDA's first response to a disease investigation should not be to travel to the precise geographic coordinates requested on its "premises registration" form to inspect the property where the suspect cattle were first identified with an eartag or other device, "premises registration" is unnecessary and counterproductive. This would not be a prudent disease investigation strategy. Instead, USDA's first response

should be to talk to the people who have the information and records associated with any suspect animals. Therefore, a legitimate disease traceback program would associate cattle to their owners and to the officials with jurisdiction over any suspect cattle – the state and local veterinarian, which is the case under USDA’s preexisting disease programs. APHIS has no legitimate reason to require cow/calf producers, backgrounders and stockers to register the location of their calving pastures or working corrals. *Only* after consulting with the disease response team and *only* upon an official determination of probable cause indicating that the precise location where the animals were originally identified is essential to a specific, ongoing disease investigation, should APHIS have any reason whatsoever to know the precise location where the producer identified his or her cattle.

- c. State and federal regulatory agencies have worked closely with cattle producers for over a century to successfully eradicate cattle diseases and to successfully administer state brand laws and state and federal animal health programs *without* ever requiring producers to register their property with the federal government.<sup>9</sup> Today, USDA has provided no justification for elevating “premises registration” as the foundational component of any successful disease investigation strategy.
- d. The registration of one’s real property under NAIS’ “premises registration” scheme exposes livestock producers to subsequent NAIS regulatory machinery – which likely would include directives from international organizations – which likely would have harmful affects on individuals’ property rights.

**8. NAIS’ animal identification scheme would impede disease investigations and would interfere with and reduce free market competition among U.S. cattle producers presently vying for the global export market:**

- a. It is unconscionable that USDA would devise a 15-digit NAIS numbering system, particularly for a purported national disease program, that provides no visual capability of determining from which of the 50 state jurisdictions a potential disease suspect originated. The NAIS “840” numbering system relegates each potential disease suspect to the entire universe of United States’ cattle (among approx. 100 million cattle) *unless* animal health officials can timely access an errorless NAIS database. Only with such timely access to an errorless NAIS database could any disease investigation begin. This “840” numbering system, because it fails to delineate among the 50 state veterinarians and the numerous APHIS-certified local veterinarians, would impede disease investigation efforts by promoting complete dependency on an electronic database, which is not failsafe and which appears to exclude local veterinarian contact information completely.

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<sup>9</sup> See 69 Federal Register, at 64646, col. 3 (“The new definition of premises identification number (PIN) differs from the definition it is replacing not only in recognizing the new numbering system but also in recognizing a premises based on a State or Federal animal health authority’s determination that it is a geographically, rather than epidemiologically, distinct animal production unit.”).



- b. International trade standards *do not require* cattle or beef to originate in a country with a national animal identification system. The World Organization for Animal Health *guidelines* for one of the most pernicious of cattle diseases – bovine spongiform encephalopathy – *recommend* that *cattle* selected for export be identified with a permanent identification system,<sup>10</sup> but *does not recommend* that beef be derived from cattle that have been permanently identified.<sup>11</sup> The U.S. has in place ongoing and successful export programs that enable U.S. cattle producers to voluntarily meet all export eligibility requirements and many U.S. cattle producers have availed themselves to this export market opportunity. These participating producers are engaging in value added practices such as verifying the source and age of their cattle in return for the expectation of economic rewards. So long as these producers continue to receive economic rewards for their efforts, they will continue producing export-eligible cattle. However, NAIS threatens to interfere and reduce the economic rewards now available to export-participating producers by imposing international source verification (the “840” eartag) on the entire U.S. cattle herd. This would be a windfall for U.S. meatpacking industry as they would no longer have to pay premiums to U.S. cattle producers for sourcing cattle to the U.S. herd.

**9. NAIS’ reporting requirements for all animal movements is unworkable, overly costly, unnecessary, and duplicative of existing practices:**

- a. NAIS’ reporting requirements are an invasive encumbrance on commerce, would require an entirely new bureaucracy to administer, and likely would subject U.S. cattle producers to penalties, enforcement and compliance costs due to its colossal scope. In addition, numerous cattle operations do not have computers and/or are not connected to the Internet, which would either precluded them from reporting animal movements to the database altogether or would significantly increase the potential for numerous errors if large volumes of 15-digit numbers are communicated via telephone. Further, due to the remote locations of many ranches, reporting within the recommended 24-hour timeframe would be impossible for cattle producers who typically follow their cattle for several days when trailing from summer to winter pastures or when marketing their cattle in the nearest town. Also, the U.S. cattle industry already documents cattle movement via state brand inspections, animal health certificates, buyer and seller invoices, and a backtagging system. NAIS completely ignores all of these animal movement documents and duplicates them by additionally requiring producer notification and reporting. This encumbrance on U.S. commerce is over-the-top and, like the rest of NAIS’ requirements, unacceptable to the U.S. cattle industry.

**10. USDA continues to misrepresent NAIS as strictly a voluntary program:**

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<sup>10</sup> See 2008 Terrestrial Animal Health Code , Chapter 11.6, World Organization for Animal Health (OIE), Articles 11.6.7, 11.6.8, and 11.6.9.

<sup>11</sup> See *id.*, at Articles 11.6.10, 11.6.11, and 11.6.12.

- a. Contrary to USDA's claim that NAIS participation is strictly voluntary,<sup>12</sup> U.S. cattle producers have been *forced* to participate in the program against their will. For example, attached to these comments as Attachment 2 is a letter from a Nebraska rancher addressed to R-CALF USA describing how animal health officials forced the use of NAIS' "840" ear tags on the rancher's cattle even though each animal was already identified with individual ear tags and/or freeze brands. This example, along with others that R-CALF USA has previously brought to the agency's attention (including the example contained in R-CALF USA's November 10, 2008 written request to the agency to retract Veterinary Services Memorandum No. 575.19) demonstrates that USDA has been disingenuous in its representation to Congress and the public regarding its ongoing NAIS activities. As a result of USDA's actions to force U.S. cattle producers to participate in its NAIS program against their will and in contradiction of the agency's public representations, USDA has lost the trust of hard working men and women who comprise the U.S. cattle industry.

**11. All real and perceived health risks that USDA now cites as justification for the implementation of NAIS are the result of USDA's systematic weakening of U.S. disease prevention standards:**

- a. NAIS is but another of a long string of examples whereby USDA has abrogated its national duty to protect and promote U.S. livestock and has, instead, blindly kowtowed to the dictates of the international World Trade Organization and its many international reference organizations:

**1. Example 1 – 1995:** USDA relaxed critical import restrictions that were essential to preventing the introduction of disease simply to comply with the General Agreement on Tariffs and Trade (GATT) and stated,

*"The United States can no longer require foreign countries wishing to export meat and poultry products to have meat and poultry inspections that are 'at least equal' to those of the United States; instead, foreign inspection systems must be [only] 'equivalent to' domestic inspection systems."*<sup>13</sup>

**2. Example 2 – 1997:** USDA adopted a relaxed policy of "regionalization," which allows regions within a country to continue exporting livestock and meat to the U.S. even if the exporting country has an ongoing disease problem. USDA stated,

*"We consider this policy to be consistent with and to meet the requirements of international trade agreements entered into by the United States."*<sup>14</sup>

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<sup>12</sup> See A Business Plan to Advance Animal Disease Traceability, USDA-APHIS, Version 1, September 2008, at 52 (APHIS reports that it published a document "to clarify NAIS as a voluntary program at the Federal level.").

<sup>13</sup> 60 Fed. Reg., at 38,688.

<sup>14</sup> 62 Fed. Reg., at 56,027.

**3. Example 3 – 2004:** USDA relaxed import restrictions by ceasing its longstanding practice of conducting monthly inspections at foreign meatpacking plants and began conducting only periodic inspections. USDA justified this action by explaining that under the United States' World Trade Organization (WTO) obligations:

*“FSIS, acting as a regulatory agency of the United States, may not impose import requirements on inspection systems or establishments in an exporting country that are more stringent than those applied domestically.”<sup>15</sup>*

**4. Example 4 – 2005:** USDA justified its action of abandoning United States' longstanding BSE import restrictions on the basis that,

*“[T]he OIE Code has never recommended banning the trade of cattle or their products even from countries with high BSE risk.”<sup>16</sup>*

- b. As a result of USDA's abandonment of longstanding U.S. health and safety standards, and its adoption of the less effective international standards, the U.S. has knowingly exposed U.S. livestock and U.S. citizens to an increased risk for the introduction of foreign animal diseases and increased risk for food contamination. The solution is *not* to burden U.S. livestock producers with the responsibility to manage other countries disease problems within U.S. borders. But rather, the solution is to restore the highly effective import restrictions that once effectively prevented the introduction and spread of foreign animal diseases in the United States.

## **PART II**

### **A STARTING POINT FOR A PRACTICAL SOLUTION FOR ENHANCING DISEASE INVESTIGATIONS**

For the foregoing reasons, R-CALF USA urges USDA to abandon the NAIS plan completely and, instead, begin immediately to enhance the highly successful and time-proven preexisting disease control programs that have become the envy of the world. Below is R-CALF USA's eight-point recommendation that would alleviate the current challenges USDA has identified regarding its current disease control capabilities:

#### **1. Prevent the importation of serious cattle diseases and pests from foreign sources by:**

- a. Prohibiting the importation of livestock from any country that experiences outbreaks of serious zoonotic diseases, including pests, until scientific evidence demonstrates

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<sup>15</sup> 69 Fed. Reg., at 51195.

<sup>16</sup> APHIS Fact Sheet, Response to R-CALF, USDA APHIS, February 2, 2005.

- the diseases and/or pests have been eradicated or fully controlled and there is no known risk of further spread. This recommendation includes a request for an immediate ban on live cattle imports from Canada, which harbor a heightened risk for BSE.
- b. Requiring all imported livestock to be permanently and conspicuously branded with a mark of origin so identification can be made if a zoonotic disease or serious pest outbreak occurs in the exporting country subsequent to importation.
  - c. Requiring all livestock imported into the United States to meet health and safety standards *identical* to those established for the United States, including adherence to U.S. prohibitions against certain feed ingredients, pesticide use on feedstuffs, and certain livestock pharmaceuticals.
  - d. Requiring TB testing of all imported Mexican cattle and further requiring that all Mexican cattle remain quarantined in designated feedlots until slaughtered.
  - e. Reversing USDA's efforts to carve out regions within disease-affected foreign countries in order to facilitate imports from the affected country before the disease of concern is fully controlled or eradicated.
  - f. Increasing the testing of all imported meat and bone meal to prohibit contaminated feed from entering the United States.
- 2. Adopt the surveillance and identification components of the preexisting brucellosis program, including the metal eartag and tattoo that identifies the state-of-origin and the local veterinarian who applied the identification devices, and require breeding stock not otherwise identified through breed registries to be identified at the first point of ownership transfer.**
  - 3. State and Tribal animal health officials should be solely responsible for maintaining a statewide database for all metal tags applied within their respective jurisdictions and should continue to use the mailing address and/or the production unit identifier determined appropriate by the attending veterinarian to achieve traceback to the herd of origin should a disease event occur. *Under no circumstances should the Federal government maintain a national registry of U.S. livestock or require the national registration of producers' real property.***
  - 4. The Federal government should enter into coordination agreements with State and Tribal animal health officials to pay for the States' and Tribal governments' costs of identifying breeding stock and maintaining the State and Tribal databases, as well as bolstering disease surveillance at livestock collection points such as livestock auction yards and slaughtering plants, including increased surveillance for BSE.**

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5. **The Federal government should coordinate with the States and Tribes to establish electronic interface standards and to establish improved communication protocols so it can more effectively coordinate with the States and Tribes in the event of a disease outbreak.**
6. **The Federal government should coordinate with the States and Tribes to establish improved protocols for the retention and searchability of State and Tribal health certificates, brand inspection documents and other documents used to facilitate interstate movement of livestock.**
7. **Establish specific disease programs and focus increased resources toward the eradication of diseased wildlife in States where wildlife populations are known to harbor communicable diseases.**
8. **To address the challenge of increased incidences of tainted meat products, Congress and USDA must substantially reform the current hands-off inspection system known as Hazard Analysis and Critical Control Point (HACCP). HACCP has fundamentally failed to ensure adequate sanitary practices at major slaughterhouse establishments. As part of the HACCP reform, Congress should implement a requirement that meat sold at retail and at food service establishments be traceable back to the slaughterhouse that produced the meat from live animals, not just back to the processor that may have further processed tainted meat. This simple improvement would enable investigators to determine and address the actual source of meat contamination – primarily the unsanitary conditions that allow enteric-origin pathogens, such as *E. coli* O157:H7, to contaminate otherwise healthful meat.**

Sincerely,

A handwritten signature in cursive script that reads "R. M. Thornsberry DVM". The signature is written in dark ink and is positioned below the word "Sincerely,".

R.M. (Max) Thornsberry, D.V.M.  
R-CALF USA President of the Board

Attachments 1 & 2