



May 18, 2010

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

Sent via facsimile and U.S. Mail: 202-720-6314

Re: Evidence Shows USDA Is Deceptively Railroaded Cattle Industry with Animal ID Plan

Dear Secretary Vilsack:

The membership of R-CALF USA was gratified by your February 5, 2010, announcement that the U.S. Department of Agriculture (USDA) would revise its prior policy, known as the National Animal Identification System (NAIS), and offer a new approach to achieving animal disease traceability. Commensurate with this constructive announcement, USDA formally reaffirmed its congressional mandate to *prevent* the introduction of animal diseases into the United States by stating that, “*Preventing* and controlling animal disease is a cornerstone of protecting American animal agriculture.”¹ (Emphasis added.)

R-CALF USA, along with its affiliated organizations and many of its contemporaries, has since dutifully expended considerable resources to assist your agency in the development of a new animal disease traceability framework. We believed our assistance would enable USDA to better achieve its congressional mandate to *prevent* and control animal diseases. However, mounting evidence demonstrates that USDA’s intentions are disingenuous at best and USDA is, in fact, pursuing a reckless course of actually inviting foreign animal diseases into the United States while simultaneously deceiving U.S. livestock producers into believing they are partners in a national effort to protect their livestock herds from the introduction and spread of disease.

The specific evidence supporting our conclusion includes, but is not limited to:

- Despite having conducted a quantitative risk evaluation for bovine spongiform encephalopathy (BSE) in 2006 that predicted the U.S. would import 19 to 105 BSE-infected Canadian cattle, resulting in 2 to 75 infections of U.S.-born cattle over the next 20 years pursuant to USDA’s over-30-month rule (OTM Rule);² and, despite a July 2008 court-ordered injunction directing USDA to reopen the OTM Rule and “revise any provision of the OTM Rule it deems necessary;”³ and, despite the occurrence of multiple BSE outbreaks in Canadian cattle that met the OTM Rule’s age requirement for importation into the United States, USDA continues to ignore the fully expected, continual reintroduction of Canadian BSE into the United States.

¹ Questions and Answers, New Animal Disease Traceability Framework, APHIS Factsheet, February 2010.

² See 72 Fed. Reg., 1109, col. 2; 72 Fed. Reg., 53347, col. 1.

³ R-CALF USA v USDA, Memorandum Opinion and Order on Motion for Preliminary Injunction, July 3, 2008, 21.

- Despite having full and complete knowledge of a 2006 report by USDA's Office of Inspector General (OIG) that states 75 percent of bovine tuberculosis (bovine TB) cases detected in U.S. slaughtering plants originated in Mexico, and despite repeated requests by R-CALF USA for immediate action to address this known disease source, USDA continues to ignore the continual reintroduction of bovine TB into the United States from Mexico.⁴
- Despite having full and complete knowledge that Canadian cattle are a source of bovine TB, as evidence by the detection of two bovine TB-infected cattle imported into the U.S. from Canada in 2008, and despite R-CALF USA's request that USDA address this known disease source, USDA continues to ignore the risks for continual reintroduction of bovine TB in imported Canadian cattle.⁵
- Despite having full and complete knowledge that the 11 factors used by the agency to determine the potential risk for foot-and-mouth disease (FMD) outbreaks in both entire countries and regions within a country are wholly incapable of predicting actual FMD risks (as was definitively proven following USDA's FMD risk evaluations for Uruguay,⁶ Argentina,⁷ the Republic of South Africa,⁸ and South Korea.⁹), USDA nevertheless persists in its efforts to apply the same, failed 11 factors to facilitate imports into the United States of beef and cattle from FMD-affected countries, notably from the Patagonia South Region of Argentina¹⁰ and Santa Catarina, Brazil.¹¹
- Despite having full and complete knowledge that the relocation of the Plum Island, N.Y., research facility to Manhattan, Kan., will increase the risk of FMD exposure for U.S. livestock, USDA, in conjunction with the U.S. Department of Homeland Security (DHS), proposes to transfer live FMD viruses and research on live FMD viruses to the U.S. mainland. USDA and DHS propose this relocation despite full knowledge that: 1) there is no support for the contention that FMD research can be done as safely at Manhattan, Kansas, as at Plum Island, N.Y.;¹² 2) Plum Island is the *only* location determined to be of *low* risk with respect to the likelihood of FMD infection;¹³ 3) "Plum Island's lack of animals placed it at an advantage with respect to the likelihood that FMD virus would become established after being released and spread from the site;"¹⁴ 4) Manhattan, Kansas, is in an area "where the virus would have ample opportunity to

⁴See Audit Report: Animal and Plant Health Inspection Service's Control Over the Bovine Tuberculosis Eradication Program, USDA, Office of Inspector General, Report No. 50601-0009-Ch, September 2006, at 19, 20.

⁵ See Canadian Food Inspection Agency Still Mum on TB Reported Cases, 250 News, June 26, 2008.

⁶ See 65 Fed. Reg., 82894, col. 3; 65 Fed. Reg., 77772, col. 1; see also 66 Fed. Reg., 36695-697.

⁷ See 65 Fed. Reg., 82895, col. 1; see also 66 Fed. Reg., 29897, col. 3; 29898, col. 1.

⁸ See 65 Fed. Reg., 65728, col. 3; see also 66 Fed. Reg., 9641-9642.

⁹ See 74 Fed. Reg., 68478, col. 3; 479, col. 2; see also 75 Fed. Reg., 1697, col. 1; see also USDA Risk Evaluation of Brazil, at 39.

¹⁰ See 72 Fed. Reg., 475-480 (USDA has a pending rulemaking to lift FMD restrictions for the Patagonia South Region of Argentina, even though Argentina has not demonstrated it is free of FMD.).

¹¹ See 75 Fed. Reg., 19915-920.

¹² See Biological Research: Observations' on DHS's Analysis Concerning Whether FMD Research Can Be Done as Safely on the Mainland as on Plum Island, U.S. Government Accountability Office (GAO), GAO-09-747, July 2009 (Hereafter "GAO Report on Plum Island"), at 46.

¹³ See *id.*, at 42.

¹⁴ *Ibid.*

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spread rapidly after release because of the presence of susceptible livestock and wildlife;¹⁵ and, 5) “for all sites except Plum Island, the wind could potentially transport viral pathogens significant distances and that this pathway is not limited for them, as it is on Plum Island.”¹⁶

- Despite having full and complete knowledge that Japan began suffering new and widespread outbreaks of FMD beginning in April 2010,¹⁷ USDA has not promulgated an emergency rule to remove Japan from the United States’ list of countries declared free of FMD¹⁸

The foregoing circumstances are clear and compelling evidence that USDA does not intend to protect American agriculture by *preventing* the introduction of foreign animal diseases, even from known disease sources. The evidence further suggests that USDA’s real motive is to coerce unsuspecting U.S. livestock producers into assisting the agency in the development of a traceback system that USDA will later use in an attempt to mitigate and defend its reckless actions of continually inviting foreign animal diseases into the United States from disease-affected countries.

This, Mr. Secretary, is outrageous, but there is no rational, alternative conclusion that can be deduced from the compelling evidence herein described.

Please explain why U.S. livestock producers should continue assisting your agency in making costly revisions to our historically successful animal disease control programs when evidence shows a primary purpose for such revisions is to facilitate the ongoing importation of high-risk livestock by enabling your agency to better trace diseases that USDA is deliberately allowing into the U.S. from disease-affected countries.

R-CALF USA desperately wants to work with you to increase the protection of our U.S. livestock herds from the introduction of and spread of animal diseases, but your agency’s actions indicate USDA is deliberately exacerbating the United States’ risk of animal disease exposure, which effectively disqualifies your agency as a legitimate partner to U.S. livestock producers.

Sincerely,



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

Cc: Edward Avalos, Under Secretary, USDA
John Ferrell, Deputy Under Secretary, USDA
Dr. John Clifford, APHIS
State Animal Health Officials

¹⁵ GAO Report on Plum Island, at 42.

¹⁶ *Ibid.*

¹⁷ See Foot and Mouth Disease, Japan, Immediate Notification, World Organization for Animal Health (OIE), April 20, 2010, available at http://www.oie.int/wahis/public.php?page=weekly_report_index&admin=0.

¹⁸ See 9 CFR § 94.1 for the list of countries USDA has declared as free of FMD.