R-CALF USA Issue Summary

Animal Health: R-CALF USA fights to strengthen our border protections to prevent the introduction of BSE from Canada, TB and fever ticks from Mexico, as well as FMD from Argentina and other countries. U.S. cattle producers received historically high prices during the years R-CALF's legal action delayed the importation of higher-risk cattle and beef from Canada. R-CALF's lawsuit against the over-30-month rule is still pending, and the court has ordered USDA to draft a new rule before it makes its final decision.

National Animal Identification System (NAIS): R-CALF USA opposes NAIS. We successfully forced USDA to back down from imposing mandatory animal identification on our industry and we are leading the fight to prevent USDA from requiring producers to register their real property and livestock under the NAIS. R-CALF recently requested USDA to demonstrate that it has any authority at all to require premises registration and is helping to fight NAIS in two separate lawsuits.

Country-of-Origin Labeling (COOL): R-CALF USA was instrumental in passing COOL, which requires beef from animals born, raised and slaughtered in the U.S. to be labeled as a product of the USA. But, packers have refused to label USA beef with the USA label. Instead, they are labeling USA beef with a North American label that states: "Product of the U.S. Canada, and Mexico." R-CALF is fighting to ensure that beef from cattle born, raised and slaughtered in the U.S. is labeled as a product of the USA.

Beef Checkoff Reform: U.S. cattle producers are prohibited from using the contributions they make to the beef checkoff program to advertise and promote USA beef. Instead, your dollars can be used only to promote *generic* beef – both imported and domestic. R-CALF successfully encouraged the introduction of legislation in Congress that would require a large percentage of beef checkoff dollars to be used to advertise and promote *only USA* beef. We will fight to make certain this legislation passes in 2009.

Trade: Current trade policies do not protect against import surges, yet our cattle industry is highly susceptible to supply increases. The International Trade Commission states that each 1 percent *increase* in fed cattle numbers would be expected to *reduce* fed cattle prices by 2 percent. Due to this sensitivity, our industry is vulnerable to any country that decides to increase production to penetrate our market, and we're vulnerable to any packer that decides to import into the U.S. more cattle and beef to drive down domestic prices. R-CALF USA supports amending the North American Free Trade Agreement (NAFTA) to include protections against import surges, and to include such protections in all trade agreements.

Market Concentration: After JBS acquired Smithfield Beef, four firms now control about *88 percent* of U.S. steer and heifer slaughter. These four firms use captive supplies to lower domestic cattle prices. Captive supplies are cattle owned by the packers or cattle procured through formula contracts that allow packers to remove fed cattle from the marketplace before establishing a price. R-CALF USA is fighting to end the meatpackers' use of captive supplies. Also, R-CALF successfully encouraged the Justice Department and 17 state attorneys general to file a lawsuit to block the merger between JBS and National Beef, which would allow *only three* packers to control 88 percent of the marketplace. R-CALF has joined with OCM and filed its own lawsuit to block the JBS merger. In our lawsuit, we argue the damaging effects of captive supplies, something the government's lawsuit does *not* do.

Private Property Rights: R-CALF USA members care for their livestock *and* our natural resources – our land, air, and water. In recent years, the government has attempted to expand its landholdings and control by restricting landowners' use of their own land, particularly within or near land that the government is trying to control. R-CALF is fighting to defend and protect the private property rights of its members by informing them of their rights and is fighting to prevent the infringement of those rights.

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Written Testimony of

R.M. (Max) Thornsberry, D.V.M.
R-CALF USA Board President and Region VI Director Max Thornsberry

Before the Missouri Interim Committee on Emerging Issues in Agriculture
Representative Charles Schlottach, Chairman

January 5, 2009

I. INTRODUCTION

Good afternoon Mr. Chairman and distinguished Committee Members, I am Max Thornsberry, D.V.M.

II. STATE OF THE MISSOURI CATTLE INDUSTRY

Missouri is one of 11 states that continue to generate over $1 billion in annual cash receipts from the sale of live cattle and calves, earning $1.22 billion in 2007.[1] Missouri also has the distinction of having the second largest mother cow herd in the U.S. and the second largest number of U.S. cattle operations, second only to Texas in both categories.[2] Given this prominence, a healthy live cattle industry is vital to the economic wellbeing of the State of Missouri. However, the Missouri cattle industry is in a serious state of decline and immediate reforms are needed to prevent its ongoing contraction.

During the past three decades, the number of Missouri cattle operations fell by nearly half – from 111,000 cattle operations in 1977 to only 64,000 in 2007.[3] *See* chart in Attachment 1. During this same period, the size of Missouri's cattle herd fell by nearly two million head, from

[1] *See* Cattle, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), Feb. 1, 2008, at 3, available at http://usda.mannlib.cornell.edu/usda/current/Catt/Catt-02-01-2008.pdf; *see also* Meat Animals Production, Disposition, and Income 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service, April 2008, at 8, available at http://usda.mannlib.cornell.edu/usda/current/MeatAnimPr/MeatAnimPr-04-25-2008.pdf.
[2] *See* Farms, Land in Farms, and Livestock Operations, 2007 Summary, U.S. Department of Agriculture Agricultural Statistics Service (NASS), Sp Sy 4 (08) a, February 2008, at 15, available at http://usda.mannlib.cornell.edu/usda/current/FarmLandIn/FarmLandIn-02-01-2008_revision.pdf.
[3] *See Ibid* (for earlier data, go to http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1017).

6.4 million head to 4.45 million.[4] *See* chart in Attachment 1. Missouri does not have a significant beef industry – the manufacturing industry that converts live cattle into consumable beef, commonly known as the beef packing industry. In 2007, only 87,000 cattle were slaughtered in federally inspected and other slaughtering plants in Missouri,[5] representing only about 4 percent of Missouri's annual calf crop, which is currently above 2 million head per year.[6] Thus, nearly all the cattle produced in Missouri are sold out-of-state where the beef industry has become highly concentrated – in the High Plains region centered in Colorado, western Iowa, Kansas, Nebraska, Oklahoma, and Texas.

Due to the long-run lack of profitability within our U.S. cattle industry, and due also to the distance Missouri cattle must travel to be slaughtered, Missouri feeds relatively few cattle to slaughter weight. The numbers of cattle fed the ample volumes of feed grain produced each year in Missouri have fallen drastically over the past three decades, falling from 255,000 cattle on feed in 1997 to only 80,000 on feed in 2007,[7] again, this represents only about 4 percent of Missouri's current annual calf crop. *See* chart in Attachment 1.

Though there are cattle feeders in Missouri that could feed more cattle as efficiently as anywhere else in the United States, they have limited outlets for marketing their cattle once they are ready for slaughter. This lack of access to the market for Missouri cattle feeders is a barrier to any future growth in Missouri's cattle feeding industry. In addition, this lack of access to the market has caused the entire Missouri cattle industry to be less competitive than the states in the High Plains region where the beef industry has become highly concentrated. For example, the average price for cattle sold in Missouri on a per hundredweight (cwt.) basis in 2007 ($91.60) was nearly $8 per cwt. less than the average price paid in Oklahoma that year, and Missouri calves on average brought $7 per cwt. less than similar calves sold in Kansas.[8] This means that Missouri cow/calf producers are receiving about $35 less per head on the sale of their 500 pound calves than their counterparts receive for the same weight calves in Kansas – a loss to the Missouri cattle industry of over $70 million per year based on Missouri's 2 million-head annual calf crop.

The significant price difference received by the Missouri cattle industry cannot be explained by transportation costs alone. Instead this price difference suggests that, like what happened in the hog industry, the profit center for the live cattle industry is migrating towards

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[4] *See* Cattle, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), Feb. 1, 2008, at 2, available at http://usda.mannlib.cornell.edu/usda/current/Catt/Catt-02-01-2008.pdf (for earlier data, go to http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1017).
[5] *See* Livestock Slaughter 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service, March 2008, at 29, available at http://usda.mannlib.cornell.edu/usda/current/LiveSlauSu/LiveSlauSu-03-07-2008_revision.pdf.
[6] *See* Meat Animals Production, Disposition, and Income: 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), at 6, available at http://usda.mannlib.cornell.edu/usda/current/MeatAnimPr/MeatAnimPr-04-25-2008.pdf.
[7] *See* Cattle on Feed, U.S. Department of Agriculture, National Agricultural Statistics Service, Mt An 2-1 (2-08), February 22, 2008, at 20, available at http://usda.mannlib.cornell.edu/usda/nass/CattOnFe//2000s/2008/CattOnFe-02-22-2008.pdf.
[8] *See* Meat Animals Production, Disposition, and Income: 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service, at 9, available at http://usda.mannlib.cornell.edu/usda/current/MeatAnimPr/MeatAnimPr-04-25-2008.pdf.

the concentrated beef packing industry. As the beef industry continues its ongoing concentration and consolidation, the prices received by the Missouri cattle industry will likely become even less competitive, resulting in further harm to Missouri's overall economy.

Given the Missouri cattle industry's substantial contribution to Missouri's economy, and Missouri's prominent ranking in the overall U.S. cattle industry, Missouri should take the lead in instituting reforms to reverse the downward spiral our cattle industry is experiencing.

III. IMMEDIATE CHALLENGES FACING THE MISSOURI CATTLE INDUSTRY

The Missouri cattle industry is unhealthy, primarily because of the widespread and long-run misperception that the cattle industry and beef industry are one in the same. As a result, no one critically evaluated the impacts that policy initiatives advocated by the concentrated beef packers and adopted by public policy makers would have on independent U.S. cattle producers who comprise the U.S. cattle industry. As shown in the first chart in Attachment 1, this same phenomenon occurred in the Missouri hog industry, resulting in the loss of 95 percent of Missouri's hog operations over the past 3 decades, with the number of hog operations falling from 37,000 in 1977 to only 1,900 today.

Without regard to the distinct difference between the economic interests of independent cattle producers and the economic interests of the highly concentrated beef packers, public policies have consistently favored the beef packing industry at the expense of cattle producers, allowing beef packers to capture an ever increasing share of the consumers' beef dollar.[9]

Such imbalanced public policies, which have facilitated the long-run lack of profitability and ongoing contraction of the Missouri cattle industry, have created a market environment that has persistently produced prices too low to sustain independent Missouri cattle producers. These policies, and the reforms needed to correct them, include the following:

A. The U.S. has Systematically Relaxed Import Restrictions that Once Protected the U.S. Cattle Herd and U.S. Consumers Against the Introduction of Foreign Animal Diseases.

The U.S. has relaxed its longstanding foreign animal disease prevention strategies that once consisted of three primary goals: 1) Preventing disease agents from entering the U.S. and infecting U.S. cattle. 2) Preventing the amplification of disease agents throughout the U.S. cattle herd, were it to penetrate the primary firewall at the borders and infect U.S. cattle. 3) Preventing exposure of Americans to the disease agent via food and other products that are fully or partially of bovine derivation.[10]

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[9] *See* Choice Beef Values and Spreads at Retail, Wholesale, and Farm Level, Red Meat Yearbook, USDA-ERS, available at http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1354; *see also* Choice Beef Values and Spreads and the All-Fresh Retail Value, USDA-ERS, available at http://www.ers.usda.gov/Data/meatpricespreads/ (the producers share of the consumer beef dollar fell from 59 percent in 1977 to less than 48 percent in 2007, representing an 11 percent decline.).

[10] *See*, e.g., Federal Inter-agency Working Group, Final Report, January 2003, Animal Disease Risk Assessment, Prevention, and Control Act of 2001, (PL 107-9), January 2003, at 40, 41 (describing the United States' three primary goals for managing the risk of bovine spongiform encephalopathy (BSE)).

Specifically, the United States is no longer working to prevent the introduction of dangerous foreign animal diseases and has opted, instead, to merely manage such diseases *after* they are allowed to enter the United States. The following are glaring examples of the United States' failure to prevent the introduction of dangerous diseases:

1. USDA promulgated a rule to allow the importation of Canadian cattle over 30 months of age (OTM Rule) despite the agency's prediction that the U.S. will introduce 19 to 105 BSE-infected Canadian cattle, resulting in 2 to 75 infections of U.S. cattle over the next 20 years.[11]

2. USDA has failed completely to prevent the continual reintroduction of bovine tuberculosis (TB) in Mexican cattle despite USDA' knowledge that 75 percent of the cattle detected between 2001 and 2005 with TB in U.S. slaughter plants originated in Mexico.[12]

3. USDA has proposed a rule to import fresh and chilled beef – products with a higher risk for foot-and-mouth disease (FMD) – from Argentina, a country not considered free of FMD, under a risky and irresponsible plan called "Regionalization."[13]

4. USDA proposed rules to weaken already lenient restrictions against the introduction of fever ticks from Mexican cattle imports and has failed to prevent both their introduction and the continuing spread of fever ticks within the United States.[14]

5. The U.S. is proposing to relocate its National Bio- and Agro-Defense Facility, currently restricted to Plum Island, New York, where the highly contagious FMD virus and other foreign animal contagions are studied, to the mainland. In fact, it is proposing to relocate this research facility in the heart of the High Plains cattle feeding region – in Manhattan, Kansas.[15]

Now that the U.S. has opted to relax its primary disease-prevention firewall at our borders, resulting in greater disease expose for our U.S. cattle herd, it had to devise an entirely new scheme to replace its abandoned border protections. That new scheme is called NAIS – the National Animal Identification System.

B. The One-Size-Fits-All NAIS Plan is an Ineffective Substitute for Disease Prevention, it Ignores the Differing Epidemiology of Various Foreign Animal Diseases, and it Constitutes an Onerous and Unnecessary Regulatory Burden on Cattle Producers.

As we learned first-hand, the vary presence of a dangerous foreign animal disease within our borders has a disastrous impact on exports of U.S. beef. Over 50 countries closed their

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[11] *See* 72 Fed. Reg., 1109, col. 2; 72 Fed. Reg., 53347, col. 1.
[12] *See* Audit Report, Animal and Plant Health Inspection Service's Control Over the Bovine Tuberculosis Eradication Program, USDA Office of Inspector General, Midwest Region, Report No. 50601-0009-Ch, September 2006, at 19.
[13] *See* 72 Fed. Reg., 475-480 (Proposal to regionalize Argentina to allow imports from Patagonia South, though Argentina itself is not considered free of FMD. *See id*., 477, col. 2.).
[14] *See* 70 Fed. Reg., 67933 *et seq*.; 73 Fed. Reg., 5132 *et seq*. (APHIS proposals to open additional U.S. ports to facilitate the importation of Mexican cattle that have been infested with or exposed to fever ticks); *see also* Stakes High in Fight Against the Cattle Fever Tick; Pest Could Spread Coast-to-Coast, Texas Animal Health Commission, Oct. 2007 ("Livestock health officials say it could cost upwards of $13 million and take as long as two years to stop an incursion of fever ticks into the formerly fever tick free areas of five counties along the Texas-Mexico border.").
[15] *See* 73 Fed. Reg., at 75665-75667, December 12, 2008.

borders to U.S. beef when a Canadian cow infected with bovine spongiform encephalopathy (BSE) was detected in Washington State. Today, five years later, we still have not restored our lost export volumes and the U.S. continues to face stiff export restrictions. For example, no U.S. ground beef can be shipped to Mexico, Hong Kong, or Japan and only meat from animals under 21 months of age is eligible for exports to Japan, and only meat from animals under 30 months of age can be exported to Mexico, Hong Kong, and South Korea.[16] Missouri should take the lead in demanding that the U.S. immediately reinstate its strategy of preventing the introduction of foreign animal diseases and it should, in no uncertain terms, inform the USDA that no amount of after-the-fact disease management, which is the impetus behind NAIS, can substitute for a strategy of prevention.

Diseases with short incubation periods such as foot-and-mouth disease (FMD) require a strategy of containment while diseases with longer incubation periods, such as bovine tuberculosis (TB), brucellosis, and BSE require both trace-back to the source of origin and trace-forward for herd mates that may also originate at the disease's source. Prior to relaxing our border restrictions, the U.S. was highly successful at eradicating diseases with long incubation periods using our existing trace back and trace forward methods. However, the U.S. now wants to abandon our effective disease programs with proven track records in favor of an untried, unproven, and exceedingly costly NAIS program for *all* animals – regardless of whether they would be removed from the production cycle before a disease could even be detected. For example, the NAIS would include calves that would be slaughtered before they reach 15 to 18 months of age.

The problem the misguided NAIS is designed to address is a problem that can be accomplished in a much more cost-effective and efficient manner than NAIS, which usurps state control by creating a whole new federal bureaucracy and requires independent producers to register their personal and real property with the federal government. That problem is the lack of a standardized information system between and among state animal health officials and USDA.[17] I am certain that we here in Missouri can remedy this communications problem and successfully enhance our disease trace back capabilities in a manner that preserves both individual rights and state rights, and that costs much less and is much more effective than the monstrous regulatory regime envisioned by NAIS.

The State of Missouri is to be commended for its 2008 law that prohibits the state from mandating or otherwise forcing citizens to comply with a national animal identification system's (NAIS's) premises registration and to authorize citizens to withdraw from NAIS at any time.[18] I encourage the State of Missouri to officially inform USDA that it strenuously objects to the federal NAIS plan.

[16] *See* Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Exports, U.S. International Trade Commission, USITC Publication No. 4033, September 2008, at 4-9.
[17] *See* APHIS-Veterinary Services Memorandum No. 575.19, December 22, 2008 ("The overall lack of standardized data elements and integration within U.S. animal health data systems has been one of the most significant challenges today in conducting successful animal traceback and controlling animal disease.")
[18] *See* Missouri Senate Bill 931, Section 267.168(1), (2).

C. **The Ongoing Concentration and Consolidation of the U.S. Beef Industry has Already Reduced Market Competition for Missouri Cattle Producers and Now Threatens the Very Viability of the Missouri Cattle Industry.**

In 2001, noted Oklahoma State University Economist Clement Ward found that the concentration levels in the U.S. meatpacking industry were already among the highest of any industry in the United States, "and well above levels generally considered to elicit non-competitive behavior and result in adverse economic performance."[19] At that time, the four largest meatpackers controlled over 80 percent of U.S. steer and heifer slaughter.[20]

Notwithstanding the fact that this conclusion strongly suggests that no additional concentration should have been allowed, in October 2008 the U.S. Department of Justice allowed the 3rd largest U.S. beef packer – Brazilian-owned JBS, to acquire the nation's 5th largest beef packer – Smithfield Beef Group, which raised the four-firm concentration ratio to an unprecedented level of approximately 88 percent. The propensity and capacity of concentrated beef packers to engage in non-competitive behavior and to diminish economic performance, as Professor Ward warned, is now significantly worse.

The device packers use to diminish economic performance is captive supply. Captive supply refers to livestock that are accumulated by packers through non-regulated future pricing schemes and other non-regulated procurement methods, including certain forward contracts, formula contracts, exclusive marketing agreements, exclusive purchasing agreements, and packer-owned cattle. Captive supplies confer on the packers the ability to create market access risk for cattle sellers by restricting their timely access to an appropriate market outlet.[21] Packer-owned cattle are the most direct form of captive supplies as they are owned, controlled, and fed by the packers. The non-competitive effects of captive supplies in the U.S. cattle industry are now documented in government studies, independent academic research, and earlier antitrust litigation.[22]

The use of captive supplies by the concentrated meatpackers is increasing rapidly. The four largest beef packers used captive supply contracting methods for over 44 percent of all the cattle they slaughtered in 2002.[23] As shown in the USDA chart contained in Figure 1 here in my

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[19] A Review of Causes for and Consequences of Economic Concentration in the U.S. Meatpacking Industry, Clement E. Ward, Current Agriculture Food and Resource Issues, 2001, at 1.

[20] *See* Packers and Stockyards Statistical Report: 2006 Reporting Year, U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration (GIPSA), May 2008, at 44, available at http://archive.gipsa.usda.gov/pubs/2006_stat_report.pdf.

[21] *See* GIPSA Livestock and Meat Marketing Study, January 2007, Volume 3, at 5-4 ("market access risk" refers to "the availability of a timely and appropriate market outlet"), available at http://archive.gipsa.usda.gov/psp/issues/livemarketstudy/LMMS_Vol_3.pdf.

[22] *See, e.g.,* Captive Supplies and the Cash Market Price: A Spatial Markets Approach, Mingxia Zhang and Richard J. Sexton, Journal of Agricultural and Resource Economics, 25(1): 88-108, at 98 (Researchers have found that individual producers within the U.S. cattle industry will agree to sign captive supply contracts even while knowing that the aggregate effect of captive supply contracts is to depress the cash market price and make all producers, including him/herself, worse off.)

[23] *See* RTI International, "Spot and Alternative Marketing Arrangements in the Livestock and Meat Industries: Interim Report," Report Prepared for the Grain Inspection, Packers, and Stockyard Administration, U.S. Department of Agriculture, July 2005 at 3-15.

written testimony, over 51 percent of the fed cattle in Kansas feedlots were procured with captive supply contracts (formula and forward contracts) beginning in 2006, and by 2008, the percent of captive supplies increased to nearly 57 percent. Importantly, any decrease in the price for fed cattle subject to the anticompetitive effects of captive supplies is transferred to lower prices for all classes of cattle, including the calves raised and sold by the vast majority of Missouri cattle producers.

Figure 1

KANSAS NUMBERS (Cattle that were fed in the state of Kansas)

****Head Counts below reflect slaughter totals for each purchase type from January 1 through June 1 of each year******

	2005	2006	2007	2008	Net Change
Cash	993,477 (52.0%)	940,039 (47.0%)	900,028 (46.0%)	816,444 (42.4%)	-9.6%
Formula	825,892 (43.3%)	889,722 (44.5%)	929,730 (47.5%)	930,016 (48.3%)	+5.0%
Forward Contract	53,539 (2.8%)	140,248 (7.0%)	101,623 (5.2%)	159,626 (8.3%)	+5.5%
Negotiated Grid	35,672 (1.9%)	28,949 (1.5%)	24,217 (1.3%)	19,817 (1.0%)	-0.9%
TOTAL	**1,908,579**	**1,998,958**	**1,955,598**	**1,925,903**	

Note: Prepared by USDA Livestock and Grain Market News/Mandatory Price Reporting/St. Joseph, MO
Head counts based on beef type steers and heifers only. No dairy type cattle or cows/bulls are included.

I wish to take this opportunity to thank Missouri State Attorney General Jay Nixon for his leadership in bringing an antitrust enforcement action against the proposed merger between Brazilian-owned JBS and the nation's 4th largest beef packer – National Beef Packing Co. Due in large part to Attorney General Nixon's efforts, the U.S. Department of Justice and a total of 17 states have joined the antitrust enforcement action to prevent the further deterioration of competition that would result from this merger.

Even with this antitrust enforcement action, however, the competitive marketplace for Missouri cattle producers is vanishing fast and I implore the State of Missouri to take a leadership position in addressing the ongoing captive supply problem, including its support for a ban on packer ownership of livestock, to preserve an open and competitive marketplace for Missouri cattle producers.

D. U.S. Trade Policies for Cattle and Beef are Fundamentally Flawed as they Fail to Address the Unique Characteristics of the U.S. Cattle Industry, They Attempt to Treat Cattle and Beef as if They Were Storable Industrial Goods, and They Have Led to Massive Price Depressing Deficits.

Current trade policies fail to take into account the live cattle industry's extreme price sensitivity to increases in imported cattle supplies. For example, the U.S. International Trade Commission (ITC) has confirmed that the U.S. live cattle industry is highly sensitive to even slight changes in increased imports of live cattle. The ITC found that the farm level elasticity of demand for slaughter-ready cattle is such that "each 1 percent increase in fed cattle [slaughter-ready] numbers would be expected to decrease fed cattle [slaughter-ready cattle] prices by 2 percent."[24] Even with this important knowledge, policy-makers have persistently failed to incorporate any meaningful protection against import surges for the U.S. cattle industry. As a result, current trade policies leave the Missouri cattle industry vulnerable to any country that decides to increase production to penetrate our U.S. market, and vulnerable to any beef packer that decides to import into the U.S. more cattle and beef to drive down domestic prices.

In addition, current trade policies fail to acknowledge that cattle and beef are like/kind products and USDA emphasizes the volume of *beef* trade and deemphasizes the volume of cattle trade when measuring the impacts of current trade agreements. This action distorts the true trade balance that continues to harm the Missouri cattle industry. For example, USDA claims that the U.S. cattle industry has a positive trade balance between Canada and Mexico in the North American Free Trade Agreement (NAFTA). However, for at least the past 15 years, USDA and the beef industry have misrepresented the true volume of beef imported into the U.S. by completely ignoring the fact that beef imports enter the U.S. in two distinct forms:

- Post-slaughter beef – imported as a meat commodity
- Pre-slaughtered beef – imported as live cattle and converted to a meat commodity in U.S. slaughtering plants.

There is no other commercial use for cattle imported for slaughter other than to be immediately slaughtered and fabricated into edible beef. Despite this, the U.S. continues to report beef, even from the hundreds of thousands of animals imported for immediate slaughter, as part of the domestic production.

When both post-slaughtered beef and pre-slaughtered beef are included in measurements of U.S. beef imports and exports, the result shows the U.S. has consistently had a negative beef trade balance with Canada and Mexico. This ongoing deficit has harmed, and continues to harm, the economic interests of Missouri cattle producers.

Here are the facts based on 2007 USDA data regarding U.S. cattle and beef trade with Canada and Mexico:[25]

- The U.S. has a trade surplus in post-slaughter beef of approx. 86.3 million pounds.
- The U.S. has a trade deficit in pre-slaughtered beef (live cattle) of 2.4 million head.
    - Among the live cattle imported from Canada were 849,318 head of cattle imported for slaughter in U.S. slaughter plants.

[24] U.S.-Australia Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, United States International Trade Commission (Publication 3697; May 2004) at 44, fn 26, available at http://hotdocs.usitc.gov/docs/pubs/2104f/pub3697.pdf.

[25] See Livestock and Meat Trade Data, Cattle Annual and Cumulative Year-to-Date U.S. Trade (head), USDA-Economic Research Service, available at http://www.ers.usda.gov/data/meattrade/CattleYearly.htm; see also Livestock and Meat Trade Data, Beef and Veal, Annual and Cumulative Year-to-Date U.S. Trade (Carcass weight, 1,000 lbs), available at http://www.ers.usda.gov/data/meattrade/BeefVealYearly.htm (a summary of this data is included as Figure 2, *infra*).

- o These slaughter-ready cattle represent approximately 637 million pounds of additional beef when converted to a beef-equivalent (using a 750-pound carcass weight).

- The combination of imported beef and imported pre-slaughter beef results in a U.S. trade *deficit* of approximately 550 million pounds (roughly the equivalent of 700,000 slaughter-ready cattle).

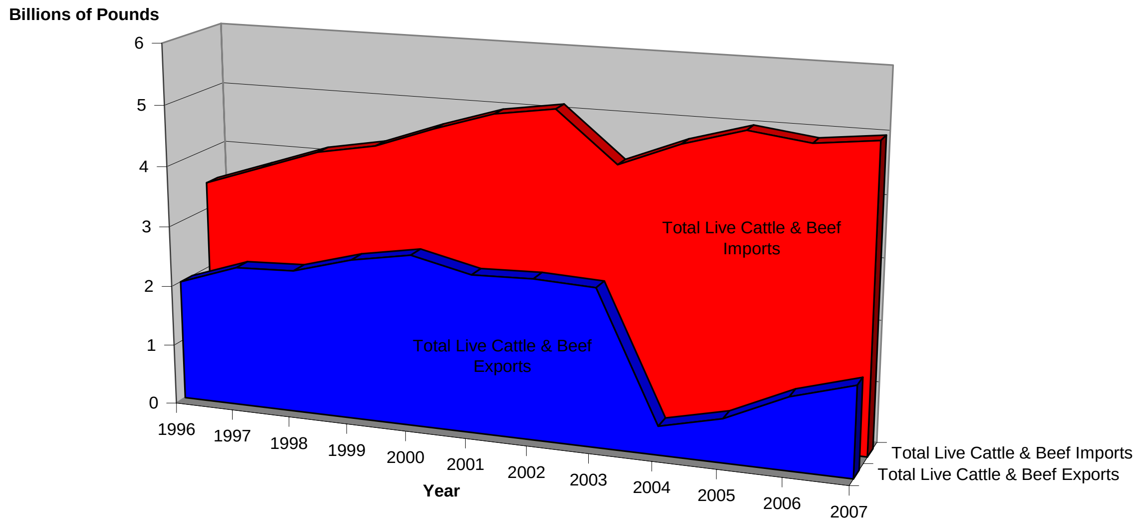
Thus, the U.S. maintains a significant deficit with Canada and Mexico in the trade of beef (including the beef from Canadian cattle imported for slaughter in the U.S.) of over 550 million pounds, and an *additional trade deficit* in cattle of over 1.6 million head (this *excludes* the cattle imported into the U.S. for slaughter). In the supply sensitive Missouri cattle industry, these additional supplies of imported live cattle in the U.S. market work to lower domestic cattle prices and shrink the size of the U.S. cattle herd. They also help to explain why, in 2004, when we halted imports from Canada, our domestic cattle prices *increased* to historic levels, even while our exports *fell* to a 19-year low.

So long as USDA continues to ignore the tremendous impact that imported cattle, particularly slaughter-ready cattle, have on our domestic cattle market and on domestic beef supplies, we will continue to experience depressed cattle prices in Missouri while simultaneously arguing that trade with Canada and Mexico is reducing domestic beef supplies. The fact is that just the opposite is true.

Importantly, the U.S. trade deficit in cattle and beef is not limited to Canada and Mexico; it is global. The U.S. has long maintained a global beef trade deficit, a global cattle trade deficit, and as shown in Figure 2 contained in my written testimony, a significant global deficit in beef and cattle converted to beef.

Figure 2

U.S. Global Trade Deficit in Cattle and Beef



Source: USDA-ERS

Figure 2 Explanation:
The conversion of live cattle to beef was accomplished by multiplying the annual number of live cattle imports and exports by the average U.S. carcass weight for each year. The annual deficit is calculated by subtracting total imports from total exports, for example, in 2007, total global imports of beef and cattle converted to beef were 4.9 billion pounds. Total global exports of beef and cattle converted to beef in 2007 were 1.5 billion pounds. The 2007 total U.S. trade deficit in cattle and beef, therefore, was 3.4 billion pounds.

Missouri take a leadership position to achieve the following trade policy reforms:

1. Immediately cease the practice of granting foreign countries access to the U.S. market before the foreign countries grant the U.S. access to their markets.
2. Classify cattle and beef as perishable and cyclical items and officially consider them like/kind products.
3. Incorporate quantity and price safeguards for both beef and live cattle.
4. Establish rules of origin that provide preferential treatment only for products from cattle that were born, raised, and slaughtered in the country of export.
5. Require importing countries to meet health and safety standards equal to U.S. standards.
6. Remove livestock from the U.S. Department of Treasury's "J-List" thereby requiring all imported livestock to be permanently marked with their country-of-origin to ensure that imported livestock can be traced following a disease outbreak in the country of export.
7. Take steps to correct currency manipulation by trading partners that have taken action to under-value their currencies vis-à-vis the U.S. dollar to gain an unjust trading advantage.

8. Amend the North American Free Trade Agreement (NAFTA) to include protections against price-depressing import surges in both cattle and beef exported from Canada and Mexico.

E. Despite Passage of Mandatory Country-of-Origin Labeling (COOL) in the 2002 Farm Bill, and the Passage of Subsequent COOL Amendments in the 2008 Farm Bill, the Beef Industry Continues to Mislabel USA Beef.

R-CALF USA was instrumental in passing COOL, recognizing that unless U.S. producers could differentiate their product from among the growing tide of imported products in the domestic market, they could not effectively compete in the largest beef consuming market in the world – their own U.S. market. COOL was first passed in the 2002 Farm Bill but because of intense pressure from the beef packing industry, COOL implementation was delayed for all but fish and shellfish until 2008. The COOL law requires beef from animals born, raised and slaughtered in the U.S. to be labeled as a product of the USA. However, the packers have brazenly refused to label USA beef with the USA label. Instead, they are labeling USA beef with a North American label that states: "Product of the United States, Canada, and Mexico." This is a tremendous disservice to hard-working U.S. cattle producers who produce the best beef in the world under the best of conditions. Their product continues to be relegated to the status of a mere commodity and consumers cannot choose to buy a USA product from their retailer even if they ask for it because the packers are providing retailers with mislabeled beef.

Several packers have promised to begin proper labeling of USA beef beginning in 2009.[26] We are currently awaiting a final implementation rule on COOL from the USDA to determine if either the State of Missouri or Congress needs to take additional action to ensure that USA beef is properly labeled with the exclusive USA label.

F. The Federal Government has Failed to Adequately Enforce Food Safety Standards Imposed on the U.S. Beef Industry.

The USDA administers an ineffective, hands-off food safety program for beef packers. This program, HACCP (Hazard Analysis Critical Control Point), essentially allows beef packers to police their own food safety measures. Despite increases in food safety violations, including increases in food-borne illnesses attributed to unsanitary slaughtering conditions, such as meat contaminated with animal feces - a source of the *E. coli* 0157:H7 pathogen – the USDA persists with this inadequate program. As a result, we are experiencing an erosion of consumer confidence in beef produced from Missouri cattle, thus threatening the long-term viability of the Missouri cattle industry. The State of Missouri should take the lead in calling for reforms to require direct USDA oversight and enforcement of food safety standards in U.S. beef packing plants.

G. Missouri and Other U.S. Cattle Producers are Prohibited from Using their Mandatory Assessments under the Beef Checkoff Program to Market and Promote USA Beef Produced from Their USA Cattle.

Missouri and other U.S. cattle producers are prohibited from using the contributions they make to the beef checkoff program to advertise and promote USA beef. Instead, the money raised by Missouri cattle producers can only be used to promote *generic* beef – both imported and domestic. R-CALF USA successfully encouraged the introduction of legislation in Congress that would require a large percentage

[26] *See*, e.g., Letter from John Lochner, Tyson Senior Group Vice President Fresh Meats, to valued customers, October 14, 2008.

of beef checkoff dollars to be used to advertise and promote *only USA* beef. We hope the State of Missouri will support this effort that will enable Missouri cattle producers to promote their USA-produced beef.

H. Missouri Cattle Producers Increasingly Face Government Encroachment of Their Private Property Rights.

Missouri cattle producers care for their livestock *and* our natural resources – our land, air, and water. In recent years, the federal government has attempted to expand its landholdings and control by restricting landowners' use of their land, particularly within or near land that the federal government is trying to control. R-CALF USA encourages the State of Missouri to defend and protect the private property rights of Missouri cattle producers and to resist efforts by the federal government to expand its current landholdings and its control of land owned by private individuals.

IV. CONCLUSION

Thank you for the opportunity to recommend policy reforms needed to reverse the ongoing contraction of the Missouri cattle industry. While many of these reforms must be achieved at the federal level, the State of Missouri, due to its prominent status within the U.S. cattle industry, could be instrumental in accomplishing these reforms by championing the interests of Missouri's 64,000 remaining cattle operations.

I look forward to working with you to achieve this important goal.

ATTACHMENT 1
R.M. (Max) Thornsberry, D.V.M.