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UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Public Workshops Exploring Competition Issues in
Agriculture
Livestock Workshop

A Dialogue on Competition Issues Facing Farmers in Today's
Agricultural Marketplaces

Colorado State University - Lory Student Center
Fort Collins, Colorado
August 27, 2010

1 SECRETARY VILSACK: Good morning. I just want
2 to welcome everyone to the fourth joint competition
3 workshop between the Department of Agriculture and the
4 Department of Justice. I want to take this opportunity to
5 thank Colorado State University for the help that they
6 have provided in setting up this workshop, allowing us to
7 use their facilities, and accommodating an overflowing
8 crowd. We know that this workshop has generated a lot of
9 interest, and Colorado State University has done a great
10 job in making it possible to have the space to accommodate
11 folks here today.

12 Today, we intend to focus on the livestock
13 industry and whether there is proper competition to ensure
14 producers are getting a fair shake. These workshops will
15 help us understand the issues that are of most concern and
16 deserve closer attention and to explore the appropriate
17 role, if any, for antitrust or regulatory enforcement in
18 the agricultural industry.

19 In March, we held a workshop on general farm
20 issues in Hinton, Iowa. In May, we gathered in Normal,
21 Alabama, to discuss poultry issues. In June, we discussed
22 dairy issues in Madison, Wisconsin. Moving forward, we
23 intend to hold one final workshop on December the 8th in
24 Washington, D.C. President Obama provided a clear
25 direction that government should be open and transparent,

1 and these workshops are designed to do just that. We want
2 to have a public dialogue on these very complex but
3 important issues.

4 As I travel across the country, I hear a
5 consistent theme. Producers are worried. They're worried
6 whether there's a future for them and for their children
7 in agriculture. There are many ingredients needed for
8 someone to get into farming and ranching. He or she needs
9 to have access to capital to get the land equipment and
10 livestock, they need to be willing to take significant
11 risks and work very hard, and they need to know that
12 there's an open and competitive market for their livestock
13 and for their commodities.

14 Livestock producers are extraordinarily
15 innovative, despite enduring some very difficult times.
16 The USDA is designed to support producers' ability to join
17 together, to market their products, to find value-added
18 opportunities, and to enter into contract arrangements.
19 Additionally, we look to support producers in their
20 efforts to work hard and to receive a premium for their
21 efforts.

22 Now, there are troubling statistics concerning
23 the livestock sector. The top four cattle packers control
24 roughly 80 percent of steer and heifer procurement, and
25 the top four hog packers control roughly 65 percent of hog

1 procurement. In 1994, the spot market for hogs was 62
2 percent. Today, it is only roughly 5 percent nationally.
3 And new figures just recently developed are showing it
4 dipping below 4 percent for the first time ever.

5 In cattle, depending upon what part of the
6 country you live in, the spot market is also rapidly
7 declining. In 1999, the spot market for cattle was 68
8 percent. Today, it's closer to 52 percent nationally.
9 And we know in some parts of the country, it's less than
10 30 percent. This thinning spot market is a concern
11 because it sets the base prices in marketing contracts.

12 In the retail sector, the top four retailers
13 now control 37 percent of the market up from 17 percent in
14 1992. And consolidation in this sector can have a squeeze
15 on the packing sector and have ripple effects all the way
16 down to the producer. Some have argued that the status
17 quo is better for livestock agriculture and that the
18 current system has resulted in efficiency and innovation.
19 But I think we need to take a look at where we are.

20 Under the status quo, there has been a
21 significant exodus from agriculture and a depopulating of
22 rural America. In the past 40 years, the United States
23 has lost 800,000 farmers and ranchers. And those that
24 remain are aging. From 2002 to 2007, our last ag census,
25 the average age of a farmer increased from 55 to 57. The

1 number of farmers age 75 and older has increased by 20
2 percent over the same period. Meanwhile, the number of
3 operators under 25 years of age has decreased by 30
4 percent. The sad fact is that young people find it very
5 difficult to get into this important occupation and
6 calling we call farming.

7 Fifty million people now live in rural
8 America, urban areas are growing at a much faster pace,
9 and more than half of rural counties have lost population.
10 Today, if you consider all family-farm operations, only
11 roughly 10 percent of family-farm income comes from
12 farming. And more and more of our farmers are looking
13 elsewhere for a primary source of income. Rural
14 communities have higher poverty rates than the rest of the
15 country. And the average per capita income of rural
16 residents is approximately \$11,000 below their urban and
17 suburban counterparts.

18 In 1980, there was 666,000 hog farms. Today,
19 it's roughly one-tenth of that; 67,000. A similar
20 situation exists in the cattle industry. In 1980, there
21 were over 1.6 million farms. Today, there are roughly
22 950,000 cattle farms. In 2009, a hog producer received
23 24.5 percent of the retail value of the hog, and it was
24 over double that percentage in 1980 at near 50 percent.
25 Last year, 13.6 percent went to the packer and 61.9

1 percent went to the retailer. A cattle producer gets 42.5
2 percent of the retail value of a steer in 2009, which
3 compares to 62 percent in 1980. Last year, 8.5 percent
4 went to the packer and 49 percent went to the retailer.

5 While the causes of decline in farm numbers is
6 complex, it's no secret that livestock and poultry
7 marketplaces have become more consolidated and vertically
8 integrated. And although there can be efficiencies found
9 with these trends, there is also the potential for unfair
10 practices and limited transparency which increases risk
11 for producers. We continue to seek answers and solutions.
12 And under our watch at USDA, we take a number of steps in
13 an effort to improve competition in agriculture.

14 The USDA and the Department of Justice, as a
15 result of these hearings, has established the Agricultural
16 Competition Joint Task Force to explore new opportunities
17 for utilizing each other's expertise. These workshops
18 will also help inform the work of that task force.

19 To improve the efficiency and enforcement
20 under the Packers & Stockyards Act, we've increased
21 GIPSA's budget to improve enforcement over unfair and
22 deceptive practices in the marketplace. And the
23 Department is hiring more attorneys and field
24 investigators to handle complex investigations and other
25 violations. GIPSA recently published a proposed rule for

1 fairness in marketing of livestock and poultry. And in
2 December, GIPSA published a final rule to establish basic
3 fairness in poultry contracts. So it is in this broad
4 context that we have a conversation today.

5 I want to take this opportunity to thank all
6 who have traveled here today from near and far. I
7 especially want to thank the panelists, who will be
8 introduced in a few minutes, for their willingness to
9 participate in this workshop. And I look forward to
10 hearing what everyone has to say on these very important
11 issues. Just as a note, those who are in the overflow
12 rooms will also have an opportunity to make their thoughts
13 known. We have computers and staff in each of the
14 overflow areas to take comments.

15 Now I'd like to take the opportunity to turn
16 the podium over to the attorney general of the United
17 States, Eric Holder. You need to know that during his
18 impressive career, General Holder has served in private
19 practice as U.S. attorney for the District of Columbia, as
20 an associate judge for the Superior Court of the District
21 of Columbia, and as deputy attorney general. He's worked
22 to investigate and prosecute official corruption on the
23 local state and federal, and he is fully invested in
24 strong enforcement of our nation's antitrust laws to
25 advance the interest of justice on the behalf of the

1 American people.

2 Ladies and gentlemen, please join me in
3 welcoming the attorney general.

4 ATTORNEY GENERAL HOLDER: Thank you and good
5 morning.

6 (Response from audience.)

7 ATTORNEY GENERAL HOLDER: Good morning, folks.

8 (Response from audience.)

9 ATTORNEY GENERAL HOLDER: It's Colorado. You
10 know, it's not D.C. You ought to be happy about that.

11 Thank you very much, Secretary Vilsack. And
12 also, thank you to the folks at Colorado State for helping
13 us put this together. This is a very important -- very
14 important workshop. And I want to thank all of you for
15 joining us and welcoming us this morning.

16 I think it's very fitting that we're gathered
17 here today in the Centennial State. Because as much as
18 today's discussion is about cattle, hog, and other
19 livestock industry issues, it's also about our nation's
20 founding ideals; about fairness and about equal
21 opportunity. And above all, it's about a better
22 understanding and addressing the challenges that all of
23 you face.

24 Now, for some of you, these challenges have
25 never felt more urgent or difficult to overcome. And I

1 realize this, so does Secretary Vilsack, and so does the
2 president. Our nation is now the world's larger producer
3 of beef and the third-largest producer of pork and pork
4 products. And here in Colorado, the livestock industry is
5 an economic anchor. We know that your communities and
6 counties are, in large part, ag dependent.

7 Now, in this state alone, more than 100,000
8 jobs rely on the agriculture and food industries, and more
9 than -- four in five farms and ranches are family or
10 individually owned. We also know that although beef
11 exports have been rising since the early 1990s, too many
12 farmers and ranchers are fighting tooth and nail simply to
13 make a living. This is a very, very serious issue, and
14 it's a problem that we can only solve by coming together
15 to listen, to learn, to share, and to seek out solutions.
16 And that's why we're here today.

17 The discussion we have gathered to begin
18 reflects a historic partnership between the Department of
19 Justice, the Department of Agriculture, and leaders from
20 across our nation's agricultural industry. It's a
21 partnership for which not only we can better understand
22 the conditions that you face every day -- though that's
23 the first and crucial part of this effort -- but also, and
24 most importantly, so that we can act.

25 As Secretary Vilsack mentioned, we kicked off

1 this workshop series nearly six months ago and so far have
2 explored competition issues in the seed, pork, poultry,
3 and dairy industries. Today, of course, we are here in
4 Fort Collins to learn about competition and regulatory
5 issues facing cattle, hog, and other livestock industry
6 sectors. And we've made these workshops a Cabinet-level
7 priority so that we can most effectively and efficiently
8 determine how to ensure a fairer, more competitive
9 marketplace for all of you.

10 Now, we already know that for many producers,
11 consolidation in the meat-packing industry is a top
12 concern -- primary concern. And I want you all to know
13 that the justice department is committed to fulfilling its
14 responsibility to take appropriate enforcement action when
15 a merger or other activity threatens to erode competition.

16 For example, when JBS proposed to acquire the
17 National Beef Packing Company, the justice department
18 challenged the transaction on the grounds that it would
19 have reduced competition among packers and the sale of
20 boxed beef and for the purchase of feed cattle. As a
21 result of that lawsuit, the parties abandoned the
22 transaction last year. This was an important step, but we
23 realize that it was only a small step. We would like to
24 hear any lingering concerns. We would like to know what
25 more we can do.

1 We're also eager to discuss the fact that
2 today many producers and consumers are unsure of whether
3 they're getting a fair shake. Farmers have noticed
4 discrepancies between prices at the grocery store and
5 prices paid to producers for their livestock or for their
6 crops. Secretary Vilsack and I are devoting our next
7 workshop on this very issue in December in Washington,
8 D.C., but we're very eager to air out these concerns today
9 as well.

10 You know, we realize that many of you are
11 concerned more generally about the market concentration.
12 Now, let me assure each of you that administration leaders
13 across and beyond the USDA and DOJ understand that having
14 a fair and competitive agricultural marketplace is
15 critical for producers and for consumers alike. At the
16 justice department, vigorously and appropriately enforcing
17 our antitrust laws is an essential part of our core
18 mission. Today, it's also a top priority. And that's why
19 the assistant attorney general for the Antitrust Division
20 is sitting to my right, Christine Varney.

21 Now, with that said, none of us believes that
22 antitrust enforcement is the solution to every problem.
23 But it is a solution, and it is a part of our larger
24 government-wide commitment to champion the pro-consumer
25 principles that will promote competition in the

1 agricultural sector. Now, it is with these principles in
2 mind that Secretary Vilsack and I eager to begin today's
3 discussion. Whether you're here to share your concerns
4 over concentration or consolidation, pricing, or the
5 Packers & Stockyards Act, we are here to listen. I want
6 to emphasize that. We are here to listen. Not only do we
7 welcome your insights and your recommendations, we are
8 relying on them. If past is prologue, your suggestions
9 will be many, and they will be extremely valuable.

10 After our call for your ideas last year, we
11 receiving thousands -- literally thousands of comments.
12 Already your input has been critical in guiding and in
13 focusing our work. That tremendous response only
14 represents a fraction of the potential that I know still
15 exists for building on this extraordinary example of
16 government and public engagement at its best.

17 Now, ultimately our conversation is about much
18 more than simply last years's trends or this year's
19 challenges. It is about your livelihoods. It is about
20 your families. It is about this region's economy and our
21 centuries-old American way of life. This is essentially
22 about our nation. Your participation this morning gives
23 me great hope about what we can and will accomplish
24 together in the days and weeks ahead. Secretary Vilsack
25 and I look forward to hearing from and working with each

1 and every one of you. Thank you.

2 SECRETARY VILSACK: General, thank you very
3 much. To kind of explain the program for this morning,
4 the first thing we're going to do is introduce the
5 panelists in this first panel. We have a distinguished
6 group of elected officials and appointed officials with us
7 today. That will be followed by a short break. We will
8 return and I will help lead a panel of producers.

9 During the course of the rest of the day,
10 you-all will be given a number of opportunities to simply
11 have your comments heard. We have a process that Colorado
12 State University has assisted us with; randomly selecting
13 the folks who are here. I think you may have a number.
14 Those numbers will be posted, and you'll know when your
15 opportunity to speak to the mike will take place. So what
16 I'll do now is introduce the entire panel, then I'm going
17 to encourage any member of the panel to make any kind of
18 opening comments that they have, then we'll have a few
19 questions and responses.

20 Let me start with Governor Ritter, who is
21 obviously no stranger to those from Colorado. But since
22 we have visitors from all over the country here, Governor,
23 they need to know that you were elected as Colorado's 41st
24 governor in 2006, the first Colorado-born governor in more
25 than 35 years, raised on a small farm.

1 From 1987 to 1990, Governor Ritter and First
2 Lady Jeannie Ritter operated a food distribution and
3 nutrition center in Zambia, Africa. He has also served as
4 Denver's district attorney from 1993 to January of 2005.
5 And I believe folks know here in Colorado that he earned
6 in that position a national reputation as one of the
7 country's most effective and innovative prosecutors.
8 Several of his programs continue to serve both here in
9 Colorado and as national models.

10 Governor, welcome.

11 I want to take this opportunity to welcome to
12 the panel the Honorable Betsy Markey, U.S. congresswoman,
13 U.S. House of Representatives, who obviously has fans in
14 the audience.

15 Betsy was elected to Congress in 2008 and has
16 respected the people of the Fourth Congressional District
17 since that time. From 2005 to 2007, the Congresswoman
18 served the people of the Fourth District as U.S. Senator
19 Ken Salazar's regional director for the northern to
20 eastern parts of Colorado. Her extensive government
21 experiences date back to 1978 when she was hired by U.S.
22 Congressman Herb Harris to work as a legislative aide for
23 the subcommittee on post office and civil service. The
24 U.S. Department of State also recruited the congresswoman
25 in 1984 to develop computer security policies for the

1 newly formed Office of Information Security Systems.

2 She's been involved and engaged in her
3 community as president of the board of directors in the
4 Food Bank of Larimer County. She's also a cofounder of a
5 small business operation as well as a popular and
6 successful coffee and ice cream shop in Old Town Fort
7 Collins, which all of you need to go to after this event.

8 Congresswoman, thank you for coming today.

9 Let me take this opportunity to acknowledge
10 the assistant attorney general that's already been
11 referred to by General Holder. Christine Varney was
12 confirmed as the assistant attorney general for the
13 Antitrust Division on April 20th of 2009. Prior to her
14 appointment as assistant attorney general, General Varney
15 held leadership positions in both the public and private
16 sectors. From '98 to 2009, she was a partner at Hogan &
17 Hartson, a law office in Washington, D.C., where she
18 served in the dual capacity as a member of the firm's
19 antitrust practice group and headed the international --
20 excuse me, the Internet practice group.

21 From 1994 to '97, she served as a federal
22 trade commissioner at the Federal Trade Commission and was
23 a leading official on a wide variety of Internet and
24 competition issues. Prior to being a commissioner, she
25 served as an assistant to the president and secretary to

1 the Cabinet -- secretary to the Cabinet during the Clinton
2 administration.

3 Christine, welcome.

4 We are also joined by two other attorney
5 generals; the Honorable John Suthers from the State of
6 Colorado. General Suthers was appointed in 2005 as
7 attorney general of Colorado and later elected in 2006.

8 From 1977 to 1981 he served as deputy and
9 chief deputy district attorney in Colorado Springs. From
10 1979 to '81 he also headed the economic crime division of
11 the DA's office. From 1981 to '88 he served as a
12 litigation partner in the Colorado Springs firm of Sparks
13 Dix, P.C., was later elected to two terms as district
14 attorney for the Fourth Judicial District. At the
15 conclusion of his second term, he returned to private
16 practice as a senior counselor in the Sparks firm in
17 charge of the firm's litigation section. In 1999, he was
18 appointed by the governor as the executive director of the
19 Colorado Department of Corrections then by Governor Owens.

20 So, General, welcome.

21 We're also joined by the Honorable Steve
22 Bullock, attorney general of the State of Montana.
23 General Bullock was elected as Montana's 20th attorney
24 general in 2008. He began his career in public service in
25 1996 as chief legal counsel to the Montana state --

1 secretary of state. He went on to serve four years with
2 the Montana Department of Justice, first as an executive
3 assistant general and later as an acting chief deputy.

4 During this time, he also served as a
5 legislative director coordinating the attorney general's
6 legislative efforts. From 2001 to 2004, he practiced in
7 Washington, D.C., in a private firm. He also served as an
8 adjunct professor at George Washington University. Prior
9 to his election, he was in private practice in Montana.

10 And I think the last panelist that we have
11 today is no stranger to agriculture in Colorado.
12 Commissioner Stulp was named commissioner of agriculture
13 by Governor Bill Ritter in 2006; farmer, rancher who has
14 dedicated his life to Colorado agriculture. The
15 commissioner is an active member of the National
16 Association of State Departments of Agriculture. He's
17 also vice president of the Western Association of State
18 Departments of Agriculture.

19 He's served as a county commissioner. He's
20 appointed -- was appointed to fill the vacancy. He's also
21 served on numerous other boards and commissions, including
22 the State Board of Agriculture, the State Wildlife
23 Commission, Connect Colorado Technology Committee, the
24 State Land Board, and the Colorado Ag Development
25 Authority and Value-Added Board. I know -- the

1 commissioner and I spent several meetings yesterday, and I
2 learned a great deal about Colorado agriculture; the
3 diversity of it. I can tell you that he is a strong,
4 strong, strong advocate for farmers and ranchers of this
5 state.

6 Commissioner, thank you for being here.

7 Let me let me invite the governor, if he wants
8 to, to make a statement. We'll just kind of go in the
9 order in which you-all were introduced. All right.

10 GOVERNOR RITTER: Thank you, Secretary. And I
11 want to, first of all, actually thank and compliment the
12 members of the administration for taking this hearing sort
13 of to, you know, a place like Colorado where there are a
14 lot of folks who have come from other states. It's a
15 pretty rare thing to be in the presence of the secretary
16 of agriculture and the attorney general -- the assistant
17 attorney general is here as well -- and just have an
18 opportunity, really, to speak your mind about this issue.
19 And so we very much are honored here in Colorado by the
20 fact that you've decided to come west for this hearing.

21 Secondly, I would say -- I want to tell you a
22 little bit about CSU. It is my alma mater. It's the
23 place I graduated from; got my undergraduate degree. I
24 think, actually, John Stulp has me beat. He put five kids
25 through CSU; I only put one through. But he came back --

1 he just started his master's program.

2 This is a fantastic university for a lot of
3 different reasons. But from the agricultural science
4 prospective, it is really one of the leading institutions
5 in research for agricultural and animal science, such as
6 genetics, meat fabrication, and the humane treatment of
7 livestock, are all areas of study. That's just a few.
8 That doesn't exhaust the full thing. But that's, in part,
9 why we are here at this university is because it has
10 played this key role in the west in terms of the kinds of
11 research that goes on and really watching livestock as an
12 industry.

13 You mentioned in your comments I was raised on
14 a farm. I think it's important to keep in mind a couple
15 of things. And that is that this conversation is, in
16 part, about market economy for cattle, market economy for
17 livestock and hogs. And it's important for us to ensure,
18 you know, that we've got the right set of rules,
19 regulations in place. But there's an intangible value to
20 agricultural -- agricultural activity that I experienced
21 growing up on a farm. But I think a lot of people in this
22 room understand when I talk about it. It's the fabric of
23 who we are in Colorado.

24 Agriculture is the third biggest industry that
25 we have in this state. We have, as you said, a very

1 diverse agricultural economy. But there's a lot about
2 farmers and ranchers that the rest of us who don't
3 currently do it can learn lessons from. I have the
4 advantage. I still know a lot of people in the ranching
5 world, the farming world. And a couple of times a year, I
6 still have the benefit of either branding with some
7 friends of mine who have a cow-calf operation south of
8 Walden or moving cattle, you know, from their place up to
9 BLM land. It's nice to be on the back of a horse and
10 moving cattle. But you have an opportunity to speak to
11 people who do it every day.

12 And this is really what my family was about
13 when I was a kid. But now, as a person who's kind of been
14 away from that, it is a fantastic opportunity to remember
15 that there are a set of values that are a part of ranching
16 and farming that are intrinsically what I would say our
17 American values. And they have to do with hard work.

18 They have to do with dedication, a loyalty to
19 the land, a loyalty, you know, to the -- to the industry;
20 and, really, an attitude of how we pick each other up is
21 an important part of it as well. The kinds of things that
22 we need to do when our neighbors are in distress is still
23 something that farmers and ranchers understand, I think,
24 better than almost anybody else in America. And that's --
25 there's an intangible there. And that's why it's

1 important to do what we can to ensure as wide a group as
2 possible can participate in the industry.

3 And I know there's different feelings in this
4 room about the regulations -- the draft regulations, and
5 that's why you're here. But I can tell you that it is
6 important, from my perspective as a Colorado governor, as
7 a person who kind of came off a farm and still has a lot
8 of friends and people I respect that are in ranching and
9 farming that -- I think what farmers and ranchers want is
10 a fair shake. They want to understand that the rules are
11 there and that they work for them. They're not a group of
12 people who want to be over-regulated. And so it's a bit
13 of a high-wire act to have regulations in place.

14 They want the rules enforced. They want some
15 certainty in it. But at the end of the day -- at the end
16 of the day, all they really want is that it's fair and
17 that, you know, if they are looking at a piece of beef in
18 a grocery store that costs a certain amount of money and
19 they were really -- it was their daily hard work that led
20 to that beef getting to the market, they want to ensure
21 that they're getting their fair shake. And I think that's
22 the most important point to take away.

23 I, again, finish the way I started by saying
24 this is a very important industry to this state. It's
25 important to the West. It's important to the United

1 States. And we very much are honored by the fact that
2 you're taking this time to handle such an important issue
3 in really a very big town-hall sort of way. So thank you
4 both.

5 SECRETARY VILSACK: Thank you, Governor.
6 Congresswoman?

7 MS. MARKEY: Thank you very much,
8 Mr. Secretary, General Holder, and Governor for holding
9 this hearing here. It's important that we get outside of
10 Washington and get into the communities across this
11 country to really hear firsthand on what government
12 regulations -- how they impact individuals. And so I'm
13 particularly happy again that you chose Colorado State
14 University, our state's land-grant university, and also
15 the Fourth Congressional District of Colorado. We are one
16 of the largest agricultural-producing districts in the
17 entire country. So it's appropriate that you hold this
18 here in -- about competition in the livestock industry
19 here at CSU.

20 I have been hearing -- I'm a member of the
21 House Agricultural Committee and we have actually been
22 holding field hearings around the country as well, talking
23 about the 2012 Farm Bill, and this issue has come up as
24 well. I been hearing from constituents on both sides of
25 the issue, and I look forward to a productive workshop and

1 learning more. We're really here to learn and to listen.
2 But basically, the debate has resolved -- revolved around
3 the impact of proposed changes on farm prices, on
4 consumers, on global competitiveness, and a traditional
5 U.S. system of independent farms and ranches. And
6 inherent in these questions is the proper role of
7 government in monitoring and regulating agricultural
8 markets.

9 Now, some groups contend that the federal
10 government has not enforced existing laws designed to
11 prevent anticompetitive behavior and they say laws should
12 be strengthened in order to address today's market
13 realities. But others assert that present competition and
14 antitrust policies remain adequate and effective. The
15 livestock industry, as we all know, is complicated and
16 it's individualized. And ultimately, stakeholders need to
17 be the ones with the reigns in their hands.

18 For example, many producers have worked years,
19 even generations, perfecting herds to capitalize on
20 value-added opportunities, and we want to make sure that
21 they don't lose that little advantage that they have
22 worked so many years to perfect. I supported an extension
23 of the common period of the GIPSA rule until November 22nd
24 so that farmers, ranchers, and producers can understand
25 the effect this proposed rule would have on farmer --

1 family ranching, feeding, and beef-processing businesses.
2 I hope that this workshop will shed more light on how the
3 GIPSA rule will affect the livestock industry and the
4 constituents in my district. And again, I thank you for
5 being here today.

6 SECRETARY VILSACK: Thank you. Assistant
7 Attorney General Varney, I don't know if you want to add
8 to the general's comments or not.

9 MS. VARNEY: Very little, Secretary.

10 Once again, I want to thank everyone for
11 welcoming us here. I have a little bit of a Colorado
12 connection. One of my children went to college in this
13 state; not here, but down in the Springs. And I get back
14 here every time I can. I've got another one; I'm going to
15 try to convince him to look here. We like coming out here
16 as much as we can.

17 And I just wanted to say that we're delighted
18 to be here. This is a historic undertaking. Never before
19 has the Department of Justice and the Department of
20 Agriculture sat together to look at the intersection of
21 competition and agriculture policy in the United States.
22 And American's farmers put food on the table for all of
23 us, and there's something wrong in the system when the
24 farmers can't make a living, when they cannot pass that
25 farm down to their children.

1 We all need to approach this with an open
2 mind. We all have a part in the solution. And we don't
3 have an agenda. I don't have an outcome. I don't know
4 what the answer is. But I sure know there's a problem,
5 and I'm here to try to understand what it is and what we
6 can do -- what I can do, as the assistant attorney
7 general, for antitrust under the leadership of General
8 Holder to help fix the problem, to keep American
9 agriculture as vibrant as it's been for the last two
10 centuries. So I look forward to hearing from everybody
11 today.

12 SECRETARY VILSACK: Thank you.

13 General?

14 MR. SUTHERS: Secretary Vilsack, General
15 Holder, thank you so much for honoring us with your
16 presence here and choosing the state of Colorado as the
17 venue for this meeting. And I think it's wonderful that
18 we've chosen a venue like Colorado State University, which
19 is a great university that's so integral to agriculture in
20 this state. I, like Governor Ritter, am a native of
21 Colorado, and I come to the table with two basic
22 propositions. And it's the -- what guides the view of my
23 office towards agriculture.

24 Agriculture is a huge part of the Colorado
25 economy -- we've reflected that -- and agricultural

1 competition is critical to the welfare of our state and
2 nation. I don't have a large antitrust unit in my office,
3 but it's a unit with a great deal of expertise. And we
4 are spending an awful lot of time examining the issues of
5 competition in the agricultural sector, particularly the
6 issues brought about by the tremendous consolidation
7 that's taken place there.

8 We're here today to learn more. The members
9 of my office in the antitrust unit will be present at all
10 these meetings, and we're committed to monitoring -- I'll
11 tell you a little bit, I think, in a later point about
12 some actions that we've taken -- but we're committed to
13 preserving competition in the agricultural community for
14 the best interest of all Coloradans.

15 SECRETARY VILSACK: General, thank you.

16 General Bullock?

17 MR. BULLOCK: Thank you, Secretary Vilsack.

18 My family and I spent the weekend outside the
19 town of Geyser, Montana, and that's a small ranching
20 community in North Central Montana. We were there
21 principally for a family wedding. But along with that, we
22 celebrated the 100th-year anniversary of that ranch. And
23 I guess what I fear is that there will be fewer and fewer
24 of those centennial celebrations across my state. Over
25 the last 30 years, Montana's lost on average over 150

1 ranches each year. The secretary said what the average
2 age of a rancher is across the country. In Montana, it's
3 even older. Our average age is 58 years.

4 It's not only about half of our ranchers that
5 rely on their ranching and farming productions; it's their
6 primary source of income. And 20 of Montana's 56 counties
7 are experiencing long-term population decline. Each one
8 of those waning counties is heavily dependent on
9 agricultural. And I think that change in the face of
10 rural America is likely one of the reasons why many of you
11 traveled here today. And we each have our own definitions
12 of what would make this and those other workshops a
13 success. Given the size of the crowd, candidly, this
14 morning I decided just to find a parking spot would
15 probably be a good success, from my perspective.

16 But actually, my expectations are a lot higher
17 than that, and I imagine that everybody in the audience's
18 too. The fact that we're here today together, it signals
19 a significant break from the past. I'm cautiously
20 optimistic it demonstrates not only a renewed federal
21 commitment to ensuring we have a vibrant agricultural
22 sector but also a commitment to great state and federal
23 coordination.

24 Nonetheless, I think that we also have to
25 acknowledge that bringing this many producers and ag

1 interests together in one room is much like organizing a
2 firing squad in a circle. Yet there are core values that
3 we share. It's the statistics I outlined a couple of
4 moments ago that illustrate we ought to be able to agree
5 that if we value keeping the family in family farming and
6 ranching, what we're doing hasn't been working.

7 I'm a strong believer that you can't regulate
8 away every problem. But I do believe that federal and
9 state governments have a role to play here and that in
10 decades past, governments may have lost sight of that
11 rule. And even if we're a bit past the time where we can
12 realistically expect to give teeth to the Packers &
13 Stockyards Act, perhaps we could still get that
14 89-year-old law a new set of dentures. And I think we
15 should look at this.

16 Briefly, I applaud GIPSA for taking those
17 steps to make sure that the issues that we're addressing
18 throughout the day every day -- contracting,
19 concentration, marketing arrangements, and transparency --
20 are front and center in the proposed rules. At the end of
21 the day, I think all anybody wants is a free market;
22 willing buyers and sellers receiving the information they
23 need to make a private deal on a relatively equal footing.

24 I support, then, crafting some workable rule
25 that will meet those standards. And I think if we meet to

1 think about some of those things, including first
2 promoting transparency by giving producers the opportunity
3 to learn the different types of marketing arrangements
4 being offered, the producers more have to strike a deal
5 that reflects the market, not the unequal bargaining power
6 brought about by incomplete information and, second,
7 clarifying what conduct is and isn't acceptable.

8 It's interesting. Because as a state
9 regulator, when I enforce my state's unfair or deceptive
10 practices act on behalf of consumers, I don't have to
11 demonstrate that that deceptive act injured every consumer
12 in the state. I only have to demonstrate that one
13 consumer. I think what we do owe our -- we owe our
14 producers at least as much as we owe the individual
15 consumers of our respective states and a fair reading of
16 202(a) shouldn't require the rancher to demonstrate harm
17 to everyone.

18 Third, I think that with giving those
19 dentures, we need to clarify what are undue and
20 unreasonable preferences and advantages. Big doesn't mean
21 bad, and we never should suggest that it does. But by the
22 same token, absent justification, we need to make sure
23 that the packers aren't unfairly discounted to our smaller
24 and mid-sized producers that can produce the same quality
25 of livestock and do meet the same conditions set by a

1 contract.

2 Now, I know that there have been a lot of
3 concerns raised about the proposed rule that we'll be
4 talking about throughout the day. And I guess being from
5 the big sky country, I'm not quite willing to conceded
6 that the sky has fallen quite yet. I'm hoping that the
7 rule-making process will allow the opportunity for GIPSA
8 to separate the wheat from the chaff or, more
9 appropriately here, to steer clear from my bull that might
10 be out there.

11 But I do hope to hear from Montana ranchers as
12 we work on crafting our state's and potentially other
13 states' responses in these GIPSA comments. And if a small
14 packer has real concerns, we need to hear that. And if
15 the producers -- if there's something to this notion the
16 producers get injured by these rules or that more
17 consolidation could occur, we need to hear that also. And
18 the extended comment period actually provides that
19 opportunity to get that clarity.

20 Because if we return to those shared values
21 that -- of the ranch being able to be passed onto the next
22 generation, I hope that we can at least agree that the
23 status quo ain't working and doing nothing is no longer an
24 option. I think we need meaningful enforcement of laws
25 that were set up a century ago to make sure that folks get

1 a fair shake. And in the meantime, it's also important to
2 recognize Montana producers have been innovative. You've
3 been employing technology by working together, by even
4 expanding niche and value-added beef markets. As we work
5 to promote transparency and competitiveness in the market,
6 as regulators, we must not make -- we must make sure not
7 to stifle those innovations.

8 Lately, and in closing, I guess I've been
9 saying that solutions to the competition issues that we
10 face can be found in bullwhips, BlackBerries, and some
11 degree of bureaucracy. What I mean to say is this: If
12 we, as a nation, truly value a vibrant ag sector to our
13 economy, we need to draw on the strengths and expertise of
14 beyond the ground producers. We need to draw on
15 cutting-edge technology and ranch innovations and
16 common-sense government enforcement regulation. Each is
17 indispensable.

18 There are core values each of us share.
19 Republicans or Democrats, liberal or conservative, stock
20 growers or cattlemen, R-CALF or NCBA. I've never, never
21 ever heard a rancher say they didn't want their children
22 to have a viable operation to continue the family business
23 if they so choose. So if nothing else, I hope that as we
24 go forward, ensuring that family farming ranching is
25 viable for today and tomorrow's producers should be that

1 shared focal point as we move forward. Thanks so much.

2 SECRETARY VILSACK: Thanks, General.

3 Commissioner?

4 MR. STULP: Mr. Secretary and Mr. Attorney
5 General, thank you very much for coming to Colorado. This
6 is a very appropriate place to conduct this sort of a
7 hearing, here at Colorado State University, well-known for
8 their land-grant contribution to the livestock industry
9 and innovators in so many areas.

10 As I look across this audience, I recognize a
11 number of friends and neighbors. I recognize leadership
12 from the Colorado livestock industry. And you're going to
13 be hearing from them later today. And I think it's
14 important to point out they're well-respected in their
15 particular areas of interest and passion.

16 We are home in Colorado to some of the largest
17 livestock operations, some of the largest packing
18 operations, in the world. At the same time, we have some
19 of the smallest operations that are using the Internet and
20 other marketing tools to their advantage. And we're
21 seeing a great interest in our farmers markets and our
22 direct marketing from the farm to the table in the
23 different homes. And so we have a great diversity of
24 interests here in Colorado. You're going to hear a lot of
25 that diversity and legitimate differences of opinion

1 today.

2 And so, once again, thank you for coming to
3 Colorado. I think you'll hear great testimony today.

4 SECRETARY VILSACK: Commissioner, thank you
5 very much.

6 We're going to have about a half an hour for a
7 few questions. And so, General, I'm going to start off
8 with you, if I can. I think it would be helpful for the
9 audience to have a basic understanding of how you see and
10 how you oversee the role of the Department of Justice in
11 responding to concerns that folks may express about
12 transparency, about competition and concentration.

13 GENERAL HOLDER: Okay. I think that's
14 actually a very good question. Unlike the Department of
15 Agriculture, the justice department is not an agricultural
16 regulator. That's not what we do as our primary function.
17 We have a more narrow but, I think, important role. And
18 that is that we enforce the antitrust laws and we are a
19 voice for competition advocacy. We are trying to make
20 sure that things are done in a -- in a fair way.

21 The antitrust laws prohibit conduct that
22 stifle competition. That's what we focus on. We want to
23 make sure that competition is not stifled. That's what
24 Christine lives and breathes. We want to take aggressive
25 action against conduct that violates those antitrust laws.

1 We think that this will result in better prices for
2 producers that are selling their livestock and also for
3 consumers at the retail level; at their grocery shelf.

4 Our enforcement efforts include a variety of
5 things. We challenge mergers. I think I talked about
6 this 2008 challenge that we made to JBS's proposed
7 acquisition of National Beef Packing Company. We thought
8 that acquisition would have lessened the competition among
9 packers for the purchase of fed cattle and in the
10 production and the sale of USDA-graded box beef. Again,
11 something that we thought would have stifled competition,
12 so we intervened.

13 There are instances -- rare instances where
14 the justice department will bring criminal enforcement
15 actions. These are not as -- not as common. For example,
16 we have brought criminal cases against Archer Daniels
17 Midland for fixing the prices of livestock and poultry
18 feed additive and against Hoffman-Laroche for fixing the
19 price of vitamins used as animal feed additives. Again,
20 that's not something that is as common. That's what we do
21 on the civil side. But I think is a reflection of the
22 tools that the justice department has and is willing to
23 use where it is appropriate.

24 The antitrust laws are not a cure-all for the
25 problems that face ranchers and farmers. We don't hold

1 ourselves out in that way. But we think that in
2 conjunction with other laws and other regulations that are
3 more specifically designed to protect those rights of
4 individual farmers and advance their interest, that in
5 combination with those other laws and working with our
6 partners at the Department of Agriculture, that we can be
7 very effective. We can be most effective in protecting
8 those rights.

9 The Department, at base, acts as an advocate
10 for fair competition. I think, as somebody said, we don't
11 view big as necessarily bad. That is not our view. From
12 our perspective, fairness is the key to make sure that
13 there is a level playing field for competitors, whatever
14 their size. We want to try to encourage more competition
15 and transparency in the agricultural sector. And so that
16 is a general way in which I think the Department of
17 Justice sees its role in this very important sector, a
18 sector that's important not only for our exports and our
19 economy, but also for the American way of life.

20 Now, I'm unlike everybody else, it seems. I
21 was born and raised in New York City. And don't hold that
22 against me. But there is a reality to the fact that from
23 the earliest parts of this nation, a vital agricultural
24 sector and the values that are associated with it have
25 defined this nation and have really made this nation

1 different from so many others. And even as a New York
2 City guy, I get that and understand that and like to think
3 that in my time at the Department of Justice with my
4 partner, Christine Varney, that we will do our part to
5 ensure that that part of our nation, that part of our
6 culture remains viable.

7 SECRETARY VILSACK: General, you mentioned the
8 issue of competitiveness. And I want to turn to you,
9 Congressman (sic) Markey -- Congresswoman Markey, to talk
10 a little bit about this. You're out there, you're
11 campaigning, you're listening to folks. What are the
12 farmers and ranchers that you're meeting telling you about
13 the competitiveness and the openness and the transparency
14 of the market? What are you hearing about access to
15 markets?

16 MS. MARKEY: Well, I think one of the things
17 that we're hearing is uncertainty with the proposed GIPSA
18 with, you know, how far will it go in making sure that
19 it's going to benefit both consumers and producers and
20 that concern that any future government intervention
21 maintains the competitiveness in this marketplace and that
22 it's not a future haven for attorneys and potential
23 lawsuits. So again, I greatly appreciate the fact that we
24 need to move slower on this, that we extend the comment
25 period to make sure that what we're doing is right.

1 But it's -- as you know, it's a complicated
2 issue. It's a diverse issue with some groups feeling
3 that -- again, that the laws haven't been -- there are
4 existing laws that we should keep and that should be
5 strengthened and enforced and others that say that, you
6 know, the current laws are adequate and that structural
7 changes are just an outgrowth of what's going on currently
8 in the marketplace. But I think, in the end, producers
9 want to make sure as well that they are getting a fair
10 price for their product and that individual farmers,
11 ranchers, are making sure that they can keep their
12 competitive advantage in the marketplace.

13 So again, it's a delicate issue of balancing
14 how much enforcement should take place and, again, what's
15 the proper role of government.

16 SECRETARY VILSACK: Governor Ritter, I want to
17 ask you a question. You actually come to this from a
18 number of directions. You mentioned your early experience
19 living on a farm. You've been a prosecutor and now a
20 governor. I'm interested in your thoughts in terms of
21 what you believe we need to be looking at, in your view,
22 to make sure that those livestock producers, regardless of
23 size, are able to actually have a level of independence
24 over their operations and actually be able to continue the
25 value system that you talked so eloquently about.

1 GOVERNOR RITTER: Well, I do think that the
2 market, at the end of the day, is going to dictate that.
3 So much of what we've heard about with consolidation has
4 to do with the market economy that just doesn't support
5 small producers remaining in business.

6 If you look at our 20-year history of
7 agriculture generally -- this is farming and ranching -- I
8 said it was the third biggest industry, but it survives at
9 the thinnest margin; so a 20-year history, it's 2 to 3
10 percent profit margins over that time if you average it
11 out. You know this. You go through losses and there's
12 some really good years and then some tough years. That's
13 commodity marketing. But anticompetition or
14 anticompetitive practices within the market economy
15 absolutely could harm them. You all know that. And
16 that's why I think the Department of Justice is here and
17 is intent upon looking at the impact of that.

18 We want a good price for the consumer. We
19 want, you know, meat and pork to be placed on the plate at
20 the home in a way that is affordable. And yet, at the
21 same time, we want to make sure that we're doing all we
22 can to regulate the market; not too much regulation -- not
23 to heavy a regulation, but regulate it so you take out the
24 competitive practices.

25 What I would say is one of the focus -- one of

1 the things we must focus on -- I think this is as a
2 country -- is the ability to expand the access to export
3 markets. And that's, I think, a reality that we should,
4 as a country, focus on. Because consumption in the United
5 States is likely to dwindle over time as a percentage
6 of -- you know, of all food consumed, beef and pork are
7 likely to dwindle. But you look at emerging economies
8 around the world -- China, India, places like that --
9 there's actually greater beef consumption that's happening
10 in those places.

11 And for, you know, a variety of reasons, we
12 can take advantage of those expanding markets and then, in
13 a sense and maybe an indirect way, help that small
14 producer. But I -- I do think -- you know, it's a
15 difficult -- it's a difficult place. Because we value the
16 family farm, we value the family ranch, and yet there's a
17 lot about that that's made it more and more difficult.
18 People are staying in there sometimes at a financial loss
19 to them as a family just because they believe in it.

20 And so it won't all be done by regulation. It
21 won't all be done by trying to do what you can to take out
22 anticompetitive practices in those parts of the industry
23 that are heavily consolidated. But it can help. It can
24 help. And I don't think the margin has to get a whole lot
25 better than 2 or 3 percent to be able to reverse the

1 trends that we've seen in the consolidation and the
2 lessening of family farming. So I think the number one
3 thing is expanding access to markets.

4 And finally, I'd say this issue about ensuring
5 the regulations allow for direct marketing and in a way
6 allowing the rancher to directly market to the consumer
7 and take, in some respects, some of the retail middleman
8 out of that, so not have -- don't regulate it so heavily
9 that it's impossible for that, that's a great benefit.
10 That's a great benefit to a variety of the small producers
11 that John Stulp referred to, particularly the niche
12 producers that have something that they can offer that
13 really distinguishes them but may get lost if they go
14 through the entire sort of -- if they have to go through
15 the entire process from wholesale to retail, there's a lot
16 they can get lost in. Thank you.

17 SECRETARY VILSACK: Well, I can't help but
18 comment about exports. This will be the second-best year
19 in exports in ag in history since we've been keeping
20 records. We anticipate about \$105 billion of ag exports
21 led, in part, by the livestock industry. And we'll have
22 about a \$28 billion surplus, which is one of the few
23 places in our economy that actually has a trade surplus.

24 And every billion dollars of ag trade also
25 generates somewhere between 8 and 9,000 jobs. I see a lot

1 of folks from the UFCW here today who are working in those
2 processing facilities. And that means employment
3 opportunities as well; so you're absolutely correct. And
4 we are focused on increasing exports. The president has
5 charged us with, as economy and as an administration,
6 doubling exports over the course of the next several
7 years.

8 But I wanted to direct this next question to
9 the two state attorney generals who are here. You-all
10 have offices that obviously receive phone calls and
11 complaints and letters. I'm interested in knowing whether
12 or not you've seen an increase or -- of concerns as the
13 economy tightens and as farm families have difficulty.
14 And if so, what may be causing that and what protections
15 can you provide at the state level to compliment what can
16 be done at the federal level?

17 MR. SUTHERS: Well, like the United States
18 Department of Justice, the Colorado Department of Law is
19 not an agricultural regulator, per se. Our jurisdiction
20 comes from the antitrust laws of Colorado and also the
21 deceptive trade practice laws of Colorado. And I have to
22 tell you that over the last several years, virtually all
23 the concerns that have been expressed to our office about
24 the agricultural industry in Colorado and throughout the
25 United States have revolved around consolidation.

1 Particularly, in the last several years,
2 there's been a lot of concern expressed to our office by
3 agricultural interests in Colorado about consolidation
4 among packers. And it was our analysis of their concerns
5 and discussions with the United States Department of
6 Justice that caused us to join with 12 other
7 cattle-producing states and the United States Department
8 of Justice to oppose the merger of JBS Swift and National
9 Beef.

10 Just to be very precise about what our
11 analysis of -- of its impact on the marketplace, in the
12 High Plains geographic market -- the beef belt, we call
13 it; Colorado, Western Iowa, Kansas, Nebraska, Oklahoma,
14 and Texas -- we believe that that merger would have put
15 over 85 percent of packer capacity in the hands of the
16 three survivors: JBS, Tyson, and Cargill. And I think
17 every -- the cattle-producing states and DOJ jointly
18 concluded that this would have significant anticompetitive
19 effects at both ends of the chain.

20 Such consolidation would force producers,
21 ranchers, and feedlots to set cattle for lower prices and,
22 of course, wouldn't necessarily pass along those savings
23 to consumers. We believe that that sort of consolidation
24 allows firms to charge higher prices to grocers and
25 food-service companies. So not only the producer is

1 impacted, but the grocery store consumer is also impacted.

2 At the state level, we can use our existing
3 laws to protect livestock producers from anticompetitive
4 behavior and we'll certainly continue to very carefully
5 monitor that. We have the Colorado Antitrust Act of 1992
6 that forbids monopolization and attempts to monopolize bid
7 rigging and mergers that lessen competition. However, I
8 want to make sure that folks in Colorado here understand a
9 very important aspect of our Colorado antitrust law. Our
10 office cannot challenge any merger or acquisition that has
11 been reviewed by any federal agency under Section 7(a) of
12 the Clayton Act where the federal agency declined to
13 challenge the merger. That was put into Colorado law in
14 1992.

15 What that indicates to us is that there's a
16 significant premium on communication between the state and
17 federal governments. And we make sure that we convey to
18 you fully the input we have from our agricultural
19 community about concerns about consolidation and things
20 like that. Because the bottom line is if you decline to
21 intervene, we're precluded from intervening. So it's
22 very, very important that we communicate along those
23 lines.

24 We're aware of all the issues surrounding the
25 GIPSA proposed rules. The bottom line, it seems to me, is

1 that what we all have to be working for is to level the
2 playing field without over-regulating in a way that
3 disrupts the marketplace. And that's a balancing act, and
4 we're going to very carefully monitor the conversations
5 today and all that takes place to hope that we can assist
6 in our comments to the Department of Agriculture and the
7 Department of Justice in reaching that balance where we
8 have a more level playing field and don't interfere with
9 the marketplace by too much regulation.

10 MR. BULLOCK: The same is largely true -- one
11 of the nice things about AGs -- Attorney General Suthers
12 and I -- is that we're a lot closer to the grounds. We
13 hears these concerns in our churches, in our grocery
14 stores, when we're picking up our kids from school.

15 Interestingly, though -- and we both do a lot
16 of work on consumer protection issues -- if farmers and
17 ranchers were like senior citizens, we'd be a lot better
18 off inasmuch as that when they have concerns, they'll be
19 calling us. Farmers and ranchers, I think, are so used to
20 kind of going it on their own, that they're not
21 necessarily picking up their phone to some government guy
22 in the capital city. I think, though, that there is a lot
23 that can be done. General Suthers alluded to -- actually,
24 both of them did -- the calling off of JBS Swift. I mean,
25 that wasn't a change of heart. That was when USDOJ and 16

1 states came together.

2 Another thing that really heartens me, I
3 guess, is that we've seen a lot more in a lot of areas,
4 the federal government -- and under your leadership,
5 General Holder -- working together with the states,
6 realizing that we're equal partners in a lot of this. And
7 that crosses from financial crimes to straight crime to
8 fraud. I'm working a lot closer with my U.S. attorney
9 than any of my predecessors ever did.

10 This is an area, especially for our ag states,
11 where we have to maintain that same sort of state and
12 federal cooperation. Because we will hear about what's
13 going on in Washington. They'll look to us. And the more
14 that we can work together, I think, the more apt -- I
15 mean, it is a real exciting time. Now we just have to
16 make sure that we channel that excitement in constructive
17 ways for the ag community.

18 SECRETARY VILSACK: Commissioner, I want to
19 talk to you for just a second. I -- you know, speaking of
20 people that are sort of on the ground level on all this, I
21 come from a state that is fairly significant in hog
22 production. And I know that when I was governor, I would
23 hear frequently concerns about how open the market really
24 was when spot market prices were basically so limited
25 and -- but they had such a great impact on what contracts

1 would generate.

2 I'm interested to know whether or not you see
3 the same kind of activity going on or the same kind of
4 trend going on in the cattle industry in your state or
5 what your thoughts are about the spot market. How do we
6 make sure that there's sufficient integrity as the amount
7 of that spot market shrinks?

8 MR. STULP: Mr. Secretary, as I mentioned
9 earlier, as I visit with a broad spectrum of agriculture
10 producers in this state, I hear a number of somewhat
11 conflicting issues from time to time. I've always heard
12 that if you get three farmers in a coffee shop, you'll get
13 four or five opinions sometimes.

14 You know, as we look -- I'm a wheat farmer and
15 a cow-calf producer. As I look back over the years, I've
16 had an opportunity to market my calves right off the cows.
17 I can market them as I precondition them. I can take them
18 onto yearlings. I can -- I have the opportunity to finish
19 them in our own lot, which I rarely do because it's more
20 efficient to go to commercial lots in the area. And then
21 I can partner with them or I can retain ownership and
22 market them eventually as fat animals. So I've been
23 involved in all aspects of it.

24 And that -- it's important that we have as
25 many opportunities for marketing at whatever point in the

1 life cycle of livestock that these producers want to take
2 advantage of the market. We all have our opinions on when
3 we can do the best profitably, so it's important to have
4 some transparency so we know what our options are. And if
5 we don't know we have an option with a packer or with a
6 retailer, it limits the opportunities that people have.

7 And we've seen this change -- and we mentioned
8 earlier -- of people starting to go it alone in --
9 sometimes in the form of a co-op or marketing their own
10 animals. We have several people in the western slope that
11 contract their beef production through the Internet. And
12 they've retained a brand-it with their own name. They go
13 through a USDA-approved slaughter plant and -- but they
14 retain ownership. They retain their identity. And I'm
15 not sure that everybody can do that. But that's an
16 opportunity that's important.

17 And as the governor and others have mentioned,
18 that opportunity is driven by other markets if there's
19 competition in the markets. And we see, as you mentioned,
20 the export market as being very important to the meat
21 market. Colorado ranks in the top three or four,
22 depending on what type of meat we're exporting.

23 When the governor went to Japan a couple of
24 years ago, we found out that the number-one product from
25 Colorado to Japan was beef; about 24 percent of what they

1 buy from our state alone. And so it's very important that
2 we expand the global markets. China alone -- we're not
3 allowed to go in there at this point. But with the 1.3
4 billion people, if they just ate an ounce a day, we'd
5 really have a market that we couldn't satisfy.

6 We have other political barriers out there,
7 and we appreciate what this administration has been doing
8 with the export initiative, what USDA has been trying to
9 do with the ag trade offices. But as we open up global
10 markets, I think it also opens up domestic markets too.
11 And it -- hopefully it raises the overall value of beef
12 and meat products to the producers at whatever level they
13 decide to market. Because we can't all market into the
14 same market and get a good profit.

15 SECRETARY VILSACK: Christine, I want to ask
16 you just a real quick question just to give people a sense
17 of what the process is in your office. You know, as you
18 hear about information that comes to your office that
19 might suggest that there's a competitive issue -- what's
20 the analysis, what happens, how does it get handled -- so
21 folks have a sense of the factors you consider.

22 MS. VARNEY: Sure. Well, on a merger, I think
23 the first thing we do is we call the state AGs' offices.
24 Because they have the expertise on the ground and we loop
25 them in depending on where the merger is taking place.

1 And a good example that everybody referred to was JBS.

2 You know, Secretary, we're -- we have targeted
3 tools in the antitrust division. So we have the Sherman
4 Act and we have the Clayton Act which proscribed what we
5 can do when there is a merger that substantially lessens
6 competition. So we look at consolidation and we try to
7 determine what's the -- what's the consequence of the
8 proposed consolidation on the competitive marketplace. We
9 have absolutely committed to a robust enforcement of the
10 antitrust laws.

11 So when we see a proposed merger that we
12 believe will meet the criteria established by the courts
13 and the law that it will substantially lessen competition,
14 we will challenge the merger. It takes awhile. It's a
15 very fact-specific undertaking. We have to get a lot of
16 testimony. We have to do a lot of economic analysis.

17 You know, the Department of Justice employs, I
18 think, the second- or third-largest number of economists
19 in the United States government, and they're in the
20 antitrust division. We have a very strong ag economic
21 section where we go through a lot of the activity in the
22 sector. We consult very closely with the USDA whenever we
23 see a merger, whether it be in livestock, poultry, grain;
24 across the board.

25 We then -- we have to go to court. We can't

1 block a merger on our own. A judge has to agree with us.
2 Now, in the past -- when we see a merger that we believe
3 is anticompetitive, many times the parties will simply
4 abandon the merger; they won't go forward. Other times,
5 we have to go to court and litigate. And we put on a hell
6 of a case. And, you know, judges don't always agree with
7 us. But we'll go to the mats and we'll go the mats with
8 our partners in the states to try to prevent
9 anticompetitive mergers.

10 That being said, there are mergers that
11 provide a lot of efficiency, that increase competition in
12 the marketplace. And we try to distinguish carefully
13 those mergers that are procompetitive and move quickly to
14 clear those mergers through. Our doors are open. Our
15 phones are open. I think everybody at both the USDA and
16 the state AGs know how to get ahold of us.

17 When there is a merger, we want to hear your
18 views. Our friends from the unions come in often to tell
19 us how they see the merger impacting what they're doing.
20 Your trade associations are always there. Every time
21 there's a merger in an industry, I hear from the trade
22 associations. The challenge there is there's often a
23 diversity of opinion within the associations as to how a
24 merger might impact its members.

25 So we try to sort through all the information

1 we get to get to the facts and then make a decision
2 accordingly.

3 SECRETARY VILSACK: We have a few more
4 minutes. And, you know, I was struck by Attorney General
5 Bullock's comment about if farmers were more like senior
6 citizens. The reality is that they're getting very close
7 to that.

8 And that raises, I think, a fundamental
9 question that I think is important to every single person
10 in this audience, regardless of where they come out on
11 competition or GIPSA rules or anything of that sort. And
12 that is: How is it that we're going to get young people
13 into this business and keep young people in this business?
14 We cannot continue to see the trends that we've seen in
15 the aging population within our farm families. You cannot
16 have the percentage increase in farmers over 75 and a
17 decrease of farmers under 25.

18 So what I'd like to do is just very quickly go
19 right down the -- right down the line. Commissioner, I'm
20 going to start with you and just simply ask you, you know,
21 what do we have to do? Are you satisfied that the current
22 market structures and systems and trends will allow young
23 people to get into this business? And if not, what's one
24 suggestion that you would give to us as to how we might be
25 able to improve opportunities for young people?

1 MR. STULP: As you mentioned, the statistics
2 don't bear out that young people are returning. And to
3 attract young people back, you have to have a variety of
4 things. You have to have the opportunity of
5 profitability, is the number one thing, in order to
6 attract young people back.

7 We also need the infrastructure of communities
8 that have viable hospitals and good education
9 opportunities for our young people, whether it's community
10 colleges or -- or just a local high school is important.
11 So I think profitability, it starts there. And that
12 crosses all the spectrums of commodities, especially the
13 beef industry because it's predominant in the High Plains
14 area.

15 SECRETARY VILSACK: General?

16 MR. SUTHERS: It has to be a viable economic
17 undertaking for the families involved, and the children
18 have to have the assurance that they can make a living --
19 an adequate living in this agricultural community living.

20 Mr. Secretary, you can -- we, in Colorado --
21 water is at a huge premium. And it's very sad. And I'm
22 sure there's farmers and ranchers in this audience here
23 today who are facing the dilemma -- as much as they want
24 to stay on the land -- have their families stay on the
25 land, the realities of agriculture are such that their

1 water is the most valuable commodity they have. And the
2 temptation to sell that water for municipal use and take
3 land out of agricultural production is tremendous.

4 And Colorado, like many other western states,
5 tries to present all kinds of incentives, whether it be
6 conservation easements or whatever, to allow that to
7 continue to happen. But at the bottom line, it's all
8 driven by economics. And you can't blame a 65-year-old
9 ranchers whose water rights are so valuable being tempted
10 to sell those water rights to -- for municipal use. And
11 it's incumbent upon us to do everything we can to make
12 sure this agriculture business is structured in a way that
13 it's economic to stay on the land, to produce the food we
14 need on that land and reduce the incentive to simply cash
15 out and sell the water and take the land out of
16 agriculture.

17 MS. MARKEY: Thank you. You know, I, of
18 course, echo the -- you know, the basic factor that it's
19 got to be profitable for young farmers. And I talk to so
20 many families where the son and daughter -- you know, they
21 want to stay on the land, they love the rural lifestyle,
22 want to be married, raise their family; but just not sure
23 if they'll be able to eke out a living.

24 And, you know, you hear from so many farmers
25 say that behind every successful farmer is a teacher or a

1 nurse or, quite frankly, somebody else who has a part-time
2 job so that they can make ends meet. So certainly, a
3 system where it's -- we know that that farmer's going to
4 be profitable and be able to have a living for their
5 family and be able to raise their children in an area that
6 has good schools, has access to hospitals with the latest
7 technologies, banks, other small businesses in the area.

8 One of the things that I'm very happy that we
9 have done with the recovery act is really focus resources
10 on -- which we did after the Great Depression -- we made
11 sure that rural communities had electricity. Right now,
12 the next big investment in our rural communities is
13 broadband. You know, for any community to survive, a
14 community has to have access to the high-speed Internet
15 for your hospitals, for -- you know, a child really
16 growing up now needs to be -- needs to have access to the
17 Internet.

18 So all of these things that we need to have,
19 the -- the infrastructure in place so that our farmers and
20 our ranchers can raise their families with the same
21 advantages that their -- that families have in more urban
22 communities is going to be critical. Thank you.

23 SECRETARY VILSACK: I'm going to skip the
24 general to go -- give him the last word. So, Christine,
25 do you have any thoughts about this?

1 MS. VARNEY: As I said, Secretary, I'm here to
2 listen. I mean, the recurring theme that we've heard in
3 all of our workshops is the system is broken. Family
4 farms are not sustainable. They're not able to pass farms
5 down to their children. There's got to be a variety of
6 solutions. Not all of them are going to reside in
7 Antitrust, in the Department of Justice, or in the
8 Department of Agricultural.

9 So I think what we're doing here is gathering
10 information. We're taking that information back to
11 Washington, back to our state capitals, to try and figure
12 out what a comprehensive solution is going to look like.

13 GOVERNOR RITTER: Thank you, Mr. Secretary,
14 again for coming. Thank you, General Holder. And I would
15 just pick up on a couple of the comments to say we've
16 focused on the agricultural economy and ranching. It's
17 important to look at ranching and farming and the
18 different things that need to be done from a regulatory
19 perspective to allow family farms and ranches to stay in
20 business.

21 But this other part of it, I think, shouldn't
22 be missed, which is the health of rural America is at
23 risk. It's not just ranching as an industry. And I
24 should -- I would congratulate you, Mr. Secretary, on what
25 you've done on rural broadband. I really think this is an

1 important part of it. As we expand markets, as we look at
2 global markets and say, We want to access those -- also
3 allowing ranches and farms to have greater access to
4 technology -- it's going to happen because of rural
5 broadband initiatives like your initiatives. And that
6 will, over time, make a difference.

7 We have a main-street initiative that we've
8 started in Colorado. And it really is about going to very
9 small places -- Fowler, Colorado; Monte Vista, Colorado;
10 Rifle -- these are all communities where we're looking and
11 saying, What's the health -- what's the vibrancy of this
12 community, how we support it.

13 So while this is important -- this part of the
14 conversation and looking at competitiveness,
15 consolidation, and how you have as much freedom in the
16 marketplace for smaller producers, it's also important to
17 look at health, look at education, look at technology; all
18 those ways to keep kids coming back to the family farm
19 because they understand there is this future. And it's
20 not just about profitability; it's also just about, I
21 think, the quality of life in rural America.

22 So thank you for the opportunity to make these
23 comments.

24 MR. BULLOCK: I think that ranch that I
25 mentioned that I was at this past weekend where my

1 mother-in-law was raised -- the town of Geysers has changed
2 substantially in the last 30 years. And all
3 across throughout rural Montana, we're losing our schools,
4 we're losing our banks. You know, things are getting
5 smaller and smaller in some respects. If you look at that
6 over the last 30 years too, the piece of the pie that --
7 the rancher's share of the dollar has been substantially
8 decreasing all along at the same time.

9 So I don't think to actually make it possible
10 for young folks to stay on the ranch or go to the ranch,
11 it's not going to change tomorrow. You're not going to
12 say all of a sudden, Tomorrow, life is going to be good,
13 you'll have your vibrant community back. But what you
14 need to do is offer some sort of promise or hope that that
15 trend will reverse; that the rancher's share of the food
16 dollar will actually start going back where it was 20, 30
17 years go.

18 And then there's the opportunity to say, Okay,
19 I'm a young person; I'll take the risk because I like this
20 lifestyle; I like what it produces for our country and for
21 our state. But there has to be -- I mean, we have to
22 reverse that trend or -- if not, you sure can't blame them
23 for wanting to get off the ranch.

24 SECRETARY VILSACK: General?

25 ATTORNEY GENERAL HOLDER: You know, I think in

1 some ways we have to return to old values and we have to
2 value what is done on our farms. We have to support in
3 ways that we can and ways that we have discussed people
4 who want to remain on farms, who want to pass on to their
5 children the opportunity to do that. There's an
6 attitudinal thing, I think, as much as everything else we
7 have discussed. We have value what happens on our farms
8 in a way that I don't think we have in the recent past.

9 This nation became great because we made
10 things. We manufactured things. We grew things. We
11 produced things. We raised livestock. That is, I think,
12 in essence, what has defined this country and made this
13 country great. Everybody can't be on Wall Street with
14 these complex financial instruments. You know, that's the
15 kind of thing we focus a lot of our attention on and think
16 is so great. And we have not focused on, I think, the
17 core things that really is at the foundation of what has
18 made this nation the leader in the world that it is.

19 This is the 21st Century, and yet I think we
20 have to go back and think about attitudinally and what we
21 value, some of the things from the 18th Century and
22 what -- what really distinguished America and then what
23 made this country great. And so I think it's important
24 for us in government never to lose sight of that, to stay
25 in touch -- as I hope we are today in this exchange -- to

1 stay in touch with the real problems of real people and
2 come up with real-world solutions for those issues.

3 But I really do think it is a question of
4 remembering, remembering why did this country become
5 great? It wasn't an accident. It was because we made
6 conscious decisions to do things that supported people,
7 young people, in the decisions that they made to do a
8 variety of things. And we can't concentrate our
9 efforts -- concentrate what we value on things that we
10 find in New York City only.

11 You know, there's a great big country out
12 here, a great diversity in our country that we have to
13 continue to value. And that's what I believe this
14 administration is committed to doing. It is what we want
15 to work with all of you on to make happen.

16 SECRETARY VILSACK: Okay. We're going to --
17 thank you. In an effort to keep us somewhat on schedule,
18 we're going to take a quick break. We're going to come
19 back with a panel of folks who represent this rural
20 America that has been talked about today. We'll be back
21 in about 20 minutes.

22 (A recess was taken from 9:56 a.m. until
23 10:36 a.m.)

24 SECRETARY VILSACK: Could I have your
25 attention? We're going to start with the producer

1 presentation panel. Before we do, I've been joined by
2 Phil Weiser, who is a deputy assistant attorney general
3 for the U.S. Department of Justice. And Phil will be
4 helping me moderate this producer presentation. I'm going
5 to introduce the producers, starting with folks to my
6 extreme left and go right down the line before they --
7 before we begin the presentations. And hopefully, I don't
8 mispronounce anyone's name. If I do, I apologize in
9 advance.

10 Let me start with Mike. Mike's not here,
11 so -- this has been -- Alden Zuhlke. Alden Zuhlke is from
12 Brunswick, Nebraska. Alden and his family have been
13 raising hogs, corn, and soybeans for the past 35 years.
14 He's a past Nebraska Pork Board president, a member of the
15 Nebraska Environmental Quality Council. He has been
16 serving on the school board in Plainview, Nebraska, for 12
17 years; in the last four, served as president. Alden,
18 thank you very much for being here today.

19 Sitting next to Alden is Allan Sents. Allan
20 and his wife own a 10,000-head capacity commercial cattle
21 feedyard in Central Kansas. Allan has been around the
22 feedyard over 40 years and involved in ownership in the
23 last 29 years. He is the director of the United States
24 Cattlemen's Association, a past president of Kansas
25 Cattlemen's Association, and a member of the Organization

1 for Competitive Markets. Allan, thank you for being here
2 today.

3 Next to Allan is someone I know fairly well.
4 Chris Petersen is from my home state; family farmer since
5 1974 near Clear Lake, Iowa, and -- consisting of commodity
6 crops, hay; and is an independent hog producer raising
7 sustainable Berkshire hogs and direct marketing to
8 consumers in the Berkshire Gold program. He's the current
9 president of Iowa Farmers Union, board member of the
10 Iowa's center for agricultural health and safety board,
11 Iowa Citizen Action Network, along with other boards and
12 groups in Iowa National. Chris, thank you for being with
13 us here today.

14 Sitting next to Phil is Harry "Butch"
15 Livermore -- Livermont, excuse me, who is an Oglala Sioux
16 tribal member; ranch and farms with his family on the Pine
17 Ridge Reservation in South Dakota. Butch is the chairman
18 of the tribe's livestock and Landowners Association on the
19 reservation. He's the director of the local rural
20 electric association, as well as the representative on the
21 state REA board of directors. Butch, thank you for being
22 here.

23 Robbie LeValley, is that -- did I pronounce
24 that correctly? Robbie is a cow-calf producer from
25 Hotchkiss, Colorado; has been a cattle producer all of her

1 life. Her family and five other ranching families
2 cooperatively own Homestead Meats, which sells meat
3 directly to consumers, retailers, and restaurants. In
4 addition, the six families own a USDA-inspected packing
5 plant where they market their own animals and custom
6 process for numerous other consumers in West Central
7 Colorado.

8 Sitting next to Robbie is Dr. Taylor Haynes,
9 who is a cattle rancher from Cheyenne, Wyoming.
10 Dr. Haynes is involved in multiple beef-marketing efforts,
11 both conventional as well as all-natural and organic
12 grass-fed beef. I'd also like to point out that
13 Dr. Haynes is a urologist. So if anybody needs a quick
14 checkup later -- you know, in these serious conversations,
15 you've got to break them up every once in a while for
16 levity. He's a founding -- we're going to have some fun
17 on this panel.

18 He's a founding board member and president of
19 the Independent Cattlemen of Wyoming, is a member of the
20 board of directors of R-CALF USA, and, as such, is the
21 regional director for Wyoming, Utah, and Colorado.

22 Dr. Haynes is a lifetime member of the Wyoming Stock
23 Growers. He also was inducted into the Multicultural
24 Western Heritage Hall of Fame in Fort Worth, Texas, in
25 August of 2007.

1 And our last presenter is Mike Harper. Mike
2 is currently a part-owner of Harper Feedlot, LLC; has been
3 engaged in the operation since the 1970s. Harper Feedlot
4 offers custom feeding options to many producers and
5 customers in many states across the Western United States.
6 The feed-lot operation handles over 200,000 lambs per year
7 with a one-time lot capacity of 65,000 head. He is
8 currently the president of Colorado Wool Growers
9 Association and is serving on the American Lamb Council.

10 So that represents the panel that will be
11 discussing for the next hour-plus a variety of issues. So
12 let me start -- if I can, Alden, I'm going to start with
13 you, and I'd just simply ask everybody down the line the
14 way in which you were introduced. Let me just ask a very
15 brief question of all of you to just sort of open this up.

16 Over the years, as I have traveled around the
17 country, I have heard that there is increasing concern
18 that there are, essentially, fewer buyers to do business
19 with and that some are saying that producers or feeders
20 have a hard time getting bids or contracts for their
21 livestock. Is that consistent with what you have
22 experienced and heard? And if so, what are your thoughts
23 about that?

24 MR. ZUHLKE: Well, it's obviously changed in
25 the last 30-some years.

1 I said it's changed quite a bit in the last 30
2 years. And then I've thought about trying to break it
3 down in 10-year periods or something. But, I mean,
4 obviously, as economies have changed, we've had bigger
5 numbers and we've hauled in bigger numbers. I mean, if
6 you go back into this -- when we first started selling,
7 everything went to the auction barns. And then I remember
8 as a little boy, we -- Dad said, Well, we'll save some
9 money; we'll load the truck and the guy will haul them to
10 Omaha and we'll get -- capture a little more dollars
11 there.

12 And then eventually, the packers or -- you
13 know, they decided, you know, We'll put some buying
14 stations in. So then as the industry -- we hauled them
15 all to the buying stations for a while. But the trend has
16 been, you say, future -- or less people buying. But the
17 number of people selling is what drastically went down.
18 Some of the local hog buyers, when they started 25 years
19 ago, had probably 400 people they called on. And now it's
20 consolidated down to -- some of them, maybe 10 to 12 of
21 us.

22 Now, the catch in there is I market for a lot
23 of individual people that are still in the hog business.
24 So the number of people that we deal with is less, but I
25 personally deal with three different packers.

1 SECRETARY VILSACK: Okay. Allan?

2 MR. SENTS: When we acquired the feedlot
3 business almost 30 years ago, we had five different
4 packers that would routinely participate in the market
5 each week. Currently, we have three, really two of which
6 are active participants. We were impacted a couple of
7 years ago by the closing of the Emporia plant by Tyson.
8 Essentially, they still visit us on a weekly basis but
9 essentially took them out of the active market in terms of
10 competing for our cattle very effectively.

11 One of the biggest challenges we have on a
12 weekly basis is to try to determine what kind of space
13 we'll have with those other two main packers that we deal
14 with. And from week to week, it's very common for us to
15 hear that they've already secured all but one or two days
16 of the next week's supply. When we hear that, it's kind
17 of putting us on notice that we'd better be quick to act.
18 We certainly are more defensive in our stance in terms of
19 trying to sell cattle when we get that kind of information
20 and know that the trading window, as short as it is, will
21 likely pass us by in those weeks if we're not careful.

22 Now, recently we've had an uptrend in market
23 and we've had good interest in participation. But there
24 will be times, especially when there's a little pressure
25 on the market when the numbers swell some, that we get

1 most concerned about having access to the market. So
2 that's one of our biggest concerns on a weekly basis.
3 Will we have access to space the next week to move our
4 cattle?

5 SECRETARY VILSACK: Chris?

6 MR. PETERSEN: Good morning, everybody. Yeah.
7 This is quite the interesting question. When I started
8 farming in the '70s, I actually got established by raising
9 and selling feeder pigs; a quick turnover of profits. And
10 I tell you what, Iowa has tens of thousands of independent
11 hog producers. There's good demand for well-raised feeder
12 pigs. And so that market has been ruined now. It
13 basically no longer exists.

14 But in the butcher market in the '70s and
15 '80s, you had multiple buyers. Out in the countryside,
16 you had them calling you on days they needed hogs. And I
17 remember times when I was planting corn or whatever and,
18 my gosh, I don't want to really sell hogs today, you know.
19 But then the packers start calling, and you play them
20 against each other. And lo and behold, there comes a time
21 when you shut the planter off and you make an extra \$5 or
22 \$10 a hog. You load up a load of hogs. And I tell you
23 what, one thing we've been trying to do for years that I
24 stand for, if we want to start to solve this problem, ban
25 the packers from owning livestock, period.

1 Supply and demand actually work. Capitalism
2 is alive and well. Yield premiums -- when I first started
3 selling butcher hogs through the '80s and early '90s,
4 premiums paid good. You didn't have to haul them far.
5 That's disappeared now with the concentration and the
6 packers. The premiums are basically gone. And localized
7 facilities and packers no longer exist. You know, you've
8 got to pay the freight, if you're an independent, to get
9 these hogs to where they're going to be killed. It's not
10 about the farmers anymore; it's about somebody else making
11 a whole bunch of money.

12 And it -- progress, too. In the '90s, where I
13 had to hire a marketing firm to guarantee me shackle space
14 to get my hogs killed. At 3,000 head of hogs sold
15 commercially a year, I was considered one of the little
16 guys. And then the ascent of hogs hit and tens of
17 thousands of producers were washed out of Iowa. And I say
18 today that risk -- is there too much risk for an
19 independent producer to stay in business or a beginning
20 farmer to risk if the bank will even loan for it, to be an
21 independent producer?

22 Now, I don't care if you're talking hogs,
23 cattle or whatever. The bank's attorneys are
24 questioning giving money for independent producers because
25 the markets have been ruined. Thank you.

1 SECRETARY VILSACK: Harry? Butch?

2 MR. LIVERMONT: Morning, everybody. We, in
3 Western South Dakota, we take quite a few of our calves
4 off the cows and sell them, and then we background a few
5 and -- and then take them -- take them in. We sell ours
6 in Philip, South Dakota. And we don't seem to have a lot
7 of trouble getting rid of our calves in that country. It
8 seems like a lot of people from all over come and look for
9 them. But we do have problems with cow buyers.

10 I'm thinking we'd probably get two buyers in
11 Philip to come and buy cows. I've talked to several of my
12 friends there in Philip and try to talk them into -- being
13 as they're around there all the time -- to maybe get into
14 the cow-buying deal. And they said there ain't no way to
15 get -- there ain't no way to get into it because it's --
16 it's pretty well taken care of by one or two people that
17 buy for several different places. And that's how it is.

18 But -- and the calves seem to be -- going to
19 be worth a little more this fall, but still not sure
20 whether it's going to be enough to pay the expenses. But
21 we just keep plugging in there and just hope we can figure
22 out how to make it work. That's all I've got. Thank you.

23 SECRETARY VILSACK: Robbie, what about your
24 experiences with your co-op?

25 MS. LeVALLEY: In our business where we market

1 direct to the consumer through Homestead Meats,
2 approximately one-third of each of the calves that are
3 produced by the six ranching families go through the
4 Homestead Meats, the direct-marketing business.
5 Two-thirds of them go directly to feedlots and -- and
6 different feedlots in Colorado and Nebraska.

7 As I visited with the individuals that buy our
8 calves from these six ranching families, I was told that
9 on the average, the majority of the time there's three to
10 four bids on these fed cattle. If we just concentrate on
11 our Homestead Meats again, we entered into this to take
12 advantage of our premium cattle to sell direct to the
13 consumer and again, take advantage of the genetic
14 improvement that we have done across all of our herds for
15 not only selling direct to the consumer, but the improved
16 genetics to sell to the feedlots.

17 SECRETARY VILSACK: Okay.

18 DR. HAYNES: We're a calf-cow producer as
19 well; certified organic grass fed. We got into the niche
20 because of a squeeze on the commodities side. The niche
21 handles our yearling cattle.

22 We both direct market and we also deal with
23 the major wholesale purveyors. And we've seen a
24 tremendous contraction when Whole Foods Markets was
25 allowed to buy Wild Oats. And this contraction has given

1 them such power that they will walk on the contract on the
2 day you're supposed to deliver the cattle. So they walk
3 on you, the feeder, or whatever. And by the time you
4 figure, Well, we can enforce the contract, you've spent
5 more than the margin you were going to make, so you go
6 somewhere else.

7 On the commodities side, from my weighed
8 cattle and my other products, we've seen a tremendous loss
9 of buyers. Some of you that maybe flew into Denver and
10 drove up here can see the result of that. There's a lot
11 of little family feedlots; a few along I-25 that you can
12 see. Well, they're empty. Well, if you got off the
13 freeway, you could find between here and the next major
14 freeway and the next major highway, maybe you could see
15 30, 50, 75, depending on which way you went. They're all
16 empty too. And it's consolidation and loss of access to
17 the wholesale market that has driven them out of business.

18 We also have another issue, and that's access
19 to the retail market. There's not a USDA-inspected plant
20 in Wyoming. And I've had several people try. I have no
21 idea why. But that's an issue that should be addressed.
22 So to give us access to the market, to decentralize meat
23 packing is a real key. We need to do that. There's
24 several ways to do it.

25 One, the house approval, actually, has killed

1 small packers. You've got the fox watching the henhouse,
2 and it's paper chase. We need point source -- you need
3 point source interdiction and discovery, and you need to
4 enforce the food safety rule where the contamination
5 occurs, which is largely on the kill floor. So this --
6 how to solve the consolidation problem? Well, if we can
7 bring the small, medium-sized meat packers back then that
8 brings the small, medium-sized family feeder back.

9 Then the second part of this access is retail.
10 The major wholesalers threaten -- at least in Wyoming --
11 threaten supermarkets. And my organization, which -- my
12 statewide organization in which our main goal is to
13 increase the bottom line for our members, we put together,
14 say, steak specials, ground beef specials, for various
15 supermarkets, and they're happy to have that as something
16 different to offer. Well, their major supplier will
17 threaten the rest of their product. We won't supply your
18 chicken, pork, et cetera, if you buy any beef from these
19 guys. So that is an abusive practice that just simply
20 needs to be regulated away. We can compete on the shelf
21 side by side.

22 So really, access to both the retail,
23 wholesale market, is what's killing the cattle industry.
24 And we can bring that back. You know, we broke up Ma Bell
25 and that took a lot of regulation. If we facilitate

1 competition with the small meat packers, small family
2 feedlots, market access, then I think we break them up
3 with competition. Thank you.

4 SECRETARY VILSACK: Mike.

5 MR. HARPER: I feel pretty fortunate, I would
6 say, if -- Colorado might be the last place we had lambs
7 in this country. And, fortunately, we have two packers
8 right now; one in JBS, Greeley, and one in Denver, in
9 Superior Packing. So I have had an access to those
10 markets pretty regularly. We have contracts with both of
11 those entities and supply them with lambs year round.

12 Up until the last -- oh, I guess it's been
13 about six months now, I have never seen so much demand for
14 lamb. And we are extremely short in supply, and I could
15 sell lambs all over the country. If there's somebody
16 calling me, we'd have that opportunity. But I don't have
17 the numbers. The worst thing we have right now is a lack
18 of numbers. And we've got to figure out somehow to build
19 numbers back, try to increase interest in young people.

20 MR. WEISER: So I want to first say, on behalf
21 of the justice department, how glad we are to have a
22 partner. And, Secretary Vilsack, the leadership you have
23 given and focus on this has made this partnership
24 possible.

25 Second, for those who aren't going to be able

1 to speak publicly for any fears of intimidation,
2 harassment, or concerns, I want to acknowledge two people.
3 Bill Stallings, who is going to be up here shortly to
4 listen to you folks, is the leader in our agriculture
5 section, and Norm Familant, who is also up here, a
6 leader -- an agriculture economist. These two individuals
7 are here, in part, to talk to people informally. As part
8 of the effort to gather ideas, concerns, we know it's
9 going to happen not only by people speaking publicly but
10 by people speaking privately. So we encourage anyone who
11 has the interests. Myself, obviously, as well as both
12 Bill and Norm are here for that.

13 With respect to questions, I want to go back
14 to this side of the table. Because there's a theme that I
15 saw developing about potential opportunities and
16 constraints on those opportunities. One thing that I
17 think Taylor mentioned which is important is the concerns
18 about the impact of the Wild Oats/Whole Foods merger
19 and -- on the retail side. I want to start by talking a
20 little about the retail side here.

21 In particular, if you have concerns about
22 mergers after they've happened, that's also information
23 that's very valuable to share and feeds into this project.
24 So any of you who have seen a merger and then felt the
25 effects afterwards, I would encourage you to share that

1 information as well so that there's an ability of the
2 antitrust enforcement authorities to evaluate what
3 happened after the fact. That can be as or more important
4 sometimes because it enables us to do better next time and
5 potentially even address it.

6 So I want to focus on that issue. Have you
7 guys felt, on the retail side, any of the changes -- you
8 spoke generally and -- specifically with that merger,
9 Taylor, so I'll start with you. Can you explain just a
10 little bit about -- a little more detail about exactly how
11 you see that? Is it merely on this -- you know, they will
12 walk away from contracts, or does it go further than that
13 as well?

14 DR. HAYNES: It goes further than that -- it
15 goes farther than that in our area because Whole Foods
16 was -- is a major purveyor and so they're also a major
17 buyer. And what they've gone to is they buy a little
18 local and then they import quite a lot from Uruguay. So
19 we're seeing that a great deal.

20 The other issue in Wyoming, without a
21 USDA-inspected plant, then, obviously, I can't have a USDA
22 organic plant, so I have to transport to Colorado to
23 process my product. And then it could be 500 miles to
24 western Wyoming or somewhere else in Wyoming to sell that
25 product. So what we're seeing with retail is obviously

1 shelf space for the walk-in trade but also access to
2 packing at a reasonable price so that we can manage our
3 niche and stay in the black. It's quite a trick.

4 So I think mergers have to be considered very,
5 very carefully up front. And we all protest it. However,
6 there's enough -- I suppose there were enough small
7 organic retailers. But, you see, they're nationwide.
8 They're in California, maybe in Phoenix. But that doesn't
9 help in any particular region where you've got a major
10 player that's dominant.

11 MR. WEISER: Robbie, I want to go to you.
12 You've managed to come up with a cooperative solution. Do
13 you think the model that you've been able to do will work
14 elsewhere, say, in Wyoming or other places where people
15 are feeling squeezed?

16 MS. LeVALLEY: Well, I'm thinking we'll be
17 glad to process your animals. I do. Again, the six
18 ranching families went together, formed the cooperative to
19 market beef direct because of the premium cattle that they
20 had been, purchased the USDA packing facility, and are
21 direct marketing. My concern is, though, when you read
22 the proposed rules as written now, because it bans the
23 packer-to-packer sales and their subsidiaries, we are a
24 packer. And it does limit our marketing options as the
25 six ranching families. So that's my concern.

1 Again, that vagueness in that, was that the
2 intent? I'm sure not. But that is one of those
3 unintended consequences, as you read the proposed rule, is
4 that banning those sales really limits our options. We
5 were innovative. The six ranching families took market
6 risks and now will have some of their alternatives
7 limited. And that is restriction on trade. And that's my
8 concern with some of the vagueness in the proposed rule
9 changes.

10 SECRETARY VILSACK: Can I just comment on --
11 I'm not going to comment on the substance of what Robbie
12 said because it wouldn't be appropriate since the comment
13 period is still open on those rules. But I do want folks
14 to know and appreciate that comments like that that are
15 directed to the rules will be incorporated into the
16 official record of the comment period; so that anybody who
17 makes comments, we will incorporate that in the official
18 record and treat that as part of the comment-period
19 comments so that everyone can feel free to opine as they
20 wish. But we won't be able to respond because the comment
21 period is still open.

22 MR. WEISER: I want to jump back. Mike, you
23 didn't identify the concerns about the retail side or even
24 access to the packing facility, USDA-inspected plant. Are
25 those concerns at all for you? Can you see those coming

1 concerns? Maybe you could elaborate a little bit because,
2 obviously, you're in a segment that right now you have the
3 benefit of a lot of demand for your product. But are
4 these things you're thinking about?

5 MR. HARPER: You know, in times when we had a
6 lot more lambs available to us, yeah, you were always --
7 if you felt the market suppressed for some reason, you
8 were always looking for an outlet or an option; whatever
9 you could do to maximize your return. And recently we
10 haven't seen that. The numbers -- the numbers just aren't
11 there in the sheep industry anymore. We just continue to
12 lose infrastructure. And we're at a point where if things
13 don't change, we're probably going to lose another packer
14 in the industry. We've got way more packing capacity than
15 we do lambs to fill that void.

16 So it's hard to look to retail when you
17 haven't got the volume of lambs to build for it.

18 MR. WEISER: And I'll go to Harry, and I'll
19 turn it back over to the secretary. Is part of this, as,
20 I guess, Mike's comment could suggest, a normal ebb and
21 flow, or do you think there are things going on here that
22 are deeper structural problems, Harry? How do you size it
23 up?

24 MR. LIVERMONT: Well, I -- there's not a
25 question in my mind that there's something going on. But

1 I don't understand the structure good enough to know. I'm
2 pretty busy ranching. I don't -- there's something going
3 on definitely.

4 SECRETARY VILSACK: Let me -- in the interest
5 of geographic diversity here on the panel, let me turn to
6 my left and talk to you fellows. I'm interested -- in my
7 opening remarks I made the reference to the fact that the
8 spot market has contracted significantly. And hog
9 production in 1994 was 62 percent. Today it's 5 percent.
10 And there are some trends suggesting that that may be the
11 direction that the cattle industry is headed as well.
12 Obviously, cash markets are important.

13 So I'm interested in knowing whether or not
14 you have any thoughts about how pricing for livestock
15 could occur differently, if it should, and what it means
16 to producers when the spot market becomes relatively small
17 and thin. Whoever wants to go first.

18 MR. ZUHLKE: Well, it seems to affect us more.
19 I mean, the spot market -- you already heard this morning,
20 I mean, we're down to maybe 4 or 5 percent. You know, I
21 personally can't analyze it enough to know what that means
22 in my pricing mechanism. All I can do is tell you what I
23 received in the last -- I've gotten years of data here on
24 prices. And it'll match up to the USDA's pretty -- you
25 could get it from USDA also. The things that affected us

1 more in pricing is -- obviously, last year's was H1N1.

2 I mean, August a year ago, we sold hogs for
3 \$106 a head. You know, that was just devastating to us as
4 producers. This year -- I don't have the August numbers
5 in yet, but it looks -- you know, we'll be at \$160 plus.
6 Now -- so I can't find a correlation with what
7 you're talking -- you know, the -- yeah, there's not a lot
8 on the spot market. But why did we go up \$60-some a head
9 in one year's time? And I can find different periods of
10 things that have affected the hog market that didn't have
11 any -- we didn't have control of. A few years ago, there
12 was a poultry ban with Russia, and that came back to
13 affect us directly.

14 Packing -- you've asked about the packing.
15 You know, the only time that that was was the '98 period
16 when we simply had too many hogs for the ability -- for
17 the packers to kill. So that drove prices down in that
18 period. I don't have a direct answer on that.

19 SECRETARY VILSACK: Allan, your thoughts?

20 MR. SENTS: Okay. I'll give you a perspective
21 on the cattle side; just to run through a little bit the
22 scenario we deal with each week, trying to determine if
23 we'll have access to a market or not, and then the way
24 that sways our decision.

25 Early in the week, we try to find -- to get a

1 feel for the capacity of the packer to procure cattle for
2 the next week from our facility especially. Often, I've
3 got one of the main buyers we use that says that if we
4 wait for the trade to develop, he's going be the last guy
5 they call because he represents an area further away from
6 the plant. So already we know we're a little bit behind
7 the rest of the pack in that regard.

8 So as we go -- one of the decisions we have to
9 make, then, early on is -- we can have access to a captive
10 supply type of arrangement of some kind. So the choice we
11 have to make by Tuesday or Wednesday morning is, Do we
12 want to be sure we move these cattle and go on a captive
13 supply type of arrangement so we will not participate in
14 the cash market, which we have a disagreement with?

15 You know, we want to maintain an active cash
16 market; believe in the health of many bidders in that
17 process. But we have to make a decision, then. Are we
18 going to very likely be able to participate in that or do
19 we need to take advantage of one of these captive supply
20 types of arrangements which pushes us, then, out of the
21 negotiating market.

22 And just a little bit of the history we have
23 there and the power and the leverage that the packer has,
24 some years ago, the packer offered a captive supply --
25 or agreement with some of our competitors in the area,

1 giving them the high of the week if they would commit
2 their entire supply of cattle to them. We were closer to
3 the packing plant at that time than those competitors and
4 put us at a disadvantage, then. Some weeks they would be
5 full at that plant from these competitor cattle that were
6 further away, costing more money to get there, and
7 overlooked us in the process.

8 So I told that buyer, I said, Well, if you're
9 going to discriminate us -- against us in that way, I'm
10 going to allow the other packer buyers the first
11 opportunity to buy our cattle. I thought it was a turn
12 about -- a fair play type of thing. Well, the original
13 buyer then didn't like that kind of response and told his
14 buyer to quit coming into our yard.

15 So for three months we didn't get a
16 representative from that major packer into our yard just
17 because we had tried to play ball the same way the packer
18 was trying to deal with us; a very evident sign of
19 intimidation and why you hear these stories of why
20 producers are afraid to stand up and try to make a stand
21 to keep active in the cash market, which we believe is the
22 healthiest form of our business, and just reaffirms the
23 need that we have for a referee in our market.

24 And we appreciate the effort now being made to
25 address this issue and at the level that it is and greatly

1 appreciate Secretary Vilsack and also the Department of
2 Justice taking that effort to do that. And you've noticed
3 some green shirts in the crowd today. Those are people
4 that are recognizing and supporting GIPSA in addressing
5 this issue through the rule change and that type of thing.

6 So the effect, then, of our cash market,
7 ultimately, is a detriment to all of us. Initially, the
8 packers have picked off a few of these large entities that
9 are using supply. One of the biggest disagreements we
10 have is with the critics of this rule change saying that
11 it's all about procuring quality cattle. That has nothing
12 to do with it. The largest supply agreements have had
13 everything to do with supply and controlling that
14 inventory and nothing to do with quality cattle. And
15 that's shown with numerous studies and examples.

16 SECRETARY VILSACK: Chris?

17 MR. PETERSEN: Yeah. I'd like to go back a
18 few years to the ascent of hogs. And when that happened,
19 the packers and others in the industry figured out they
20 had enough control to force prices down. And so they
21 flooded the market with hogs. And the result was tens of
22 thousands of independent producers being purged out of
23 business or going into bankruptcy or committing suicide;
24 whatever. They were exited out of agriculture.

25 Now, today we have -- I was up in Minnesota on

1 daily markets. Two to 3,000 of these hogs are now on the
2 spot market. And a lot of these hogs are the poorer-doing
3 hogs -- the hogs that, you know, once in a great while the
4 packers, they need a few pigs and they get these hogs.
5 Now, on the other hand, \$100,000 -- or 100,000 hogs a day
6 on the spot market, half of these spot transactions are
7 packer to packer. Isn't that amazing? It's like
8 everybody's being convinced here. I've really been
9 convinced for a long time that something's going on here.
10 And the farmer pays the price.

11 I don't care if you're an independent pork
12 producer or a contractual pork producer. Because all of
13 the prices are based off the spot market contracts. So,
14 yeah, there's something going on here. Somebody's making
15 a whole bunch of money and somebody's getting screwed.

16 SECRETARY VILSACK: I'm interested in the
17 panel's discussion, the -- your thoughts about -- when we
18 talk about a spot market, is there a percentage, is there
19 an amount that you feel would be a more accurate
20 reflection or a more appropriate reflection, number one?
21 And, number two, what can we do in the interest of
22 transparency to provide more information so that whatever
23 decision producers are making -- are being made on the
24 best available information and the most comprehensive
25 information?

1 Mike, do you want to start with that?

2 MR. HARPER: I'll tell you what we're doing.
3 We price our lambs on a contract basis based on the USDA
4 market sheet Monday through Friday -- Monday through
5 Saturday every week. And I will tell you, I am a little
6 frustrated. We're seeing live lamb prices -- record
7 prices all around us. And, you know, we're big boys. We
8 sign these contracts and they've worked for us in years
9 past.

10 Well, right now, they're buying lambs on the
11 outside -- you know, outside the dress market at \$1.40,
12 somewhere in that range, as high as \$1.45. And I'm
13 sitting here looking at a dress market that's quoting me
14 back \$1.22 to .25 and -- because my contract says I'm tied
15 into that. Now, I don't know what's going on with the
16 dress market. The last four to five weeks has been
17 changed lower every week; \$2 to \$3 on the lighter
18 carcasses and a small amount on the heavier carcasses.
19 But why are we seeing a lower dress market and getting
20 quoted that way and higher live prices outside? I'm a
21 little perplexed by that.

22 SECRETARY VILSACK: Doctor?

23 DR. HAYNES: Well, what we see on the cattle
24 side is really the captive supply effect. And so you
25 ask -- asked about transparency. If all contracts were

1 reported and all prices on the market -- whatever the
2 entree into that market were reported -- then we'd have
3 more transparency. But really, to get that -- to get a
4 really open robust market, you've got to get away from
5 concentration.

6 And it goes back to -- it goes back to your
7 question -- previous question about pricing. We've seen a
8 13-year decline in the U.S. cattle herd for cycles which
9 used to be, say, four to six years and then a nervous
10 cycle maybe would be seven years. And as you hit the
11 bottom of that decline, the producers saw an increase in
12 price driven by supply. Well, we're in a 13-year slide.
13 We are seeing record supermarket prices. And that gap
14 between domestic production and consumption is about 2 1/2
15 billion pounds a year that's filled with imported cattle.
16 Well, that's killing us. It's driving us out of business.

17 So pricing is -- and depending on the time of
18 year, some people have to sell for whatever they can get.
19 It's not related to what they've got in the animal, not
20 related to their worth. And they can do that because they
21 control the supply. By controlling packing and feeding,
22 it flows right back to the individual producer.

23 We saw this spring -- for no apparent reason,
24 except one -- a jump in calf prices and yearling prices in
25 the late spring. And it was because, Mr. Secretary, you

1 scheduled -- you and the Department of Justice scheduled
2 this hearing. Not being clairvoyant and being Christian,
3 I don't -- I don't ever tell you what someone else's
4 motive is. However, there was nothing in supply, nothing
5 in demand that generated that price increase. This
6 hearing was the only change in our life. And so I'm sure
7 that's why the prices went up.

8 So really, it goes back to simply somehow
9 getting rid of concentration in all levels, facilitating
10 small, independent producers at all levels -- that's the
11 cow-calf, lamb producer, hog producer, and the medium and
12 small packing plants that will bring the feeders back.
13 It'll make the food supply safer. Because right now, it
14 wouldn't take much to contaminate just about the whole
15 meat supply or 88 percent of it. So repetition is the
16 mother to retention. So the key here is to decentralize
17 the meat and food production. Thank you, Mr. Secretary.

18 SECRETARY VILSACK: Robbie, any comments about
19 transparency in the spot market in the nature of your
20 operation?

21 MS. LeVALLEY: Certainly when we look at --
22 there's been an incredible body of study that has been
23 done regarding this; some of it being done by professors
24 here at the Colorado State University and some you will
25 hear from later.

1 Not only ten years ago, but recently with the
2 RTI study, if we look at the AMAs -- the alternative
3 marking -- it has added \$6 per head across the board to
4 the contracts. When you look at all of the information
5 that is currently available on the Internet regarding the
6 grids, the superior sales that happen every week, every
7 month, all of the Internet sales, all of the information
8 is out there. There is a considerable body information
9 already out there.

10 Now, what is needed, when we talk about it, is
11 just what Mr. Harper alluded to, that information, some of
12 those discrepancies, but certainly not getting into the
13 business of private contracts that are entered into
14 between willing seller and willing buyer and posting those
15 for all to see. That is not what is needed. Thank you.

16 SECRETARY VILSACK: Butch?

17 MR. LIVERMONT: I don't have any answers, but
18 I've got a question. Going back to this cow thing, we've
19 got several reasons why the cow market shouldn't be
20 depressed right now. I mean, we've got cows coming in
21 from Canada. We've got dairy cows being killed. And
22 usually this time of year, our cow market is, oh, mid-40s
23 to the top of mid-50s. Now, there's been cows selling for
24 70 bucks in the last month. Now there -- I mean, they're
25 still pretty much over 60. Why? I mean, it's -- it all

1 goes back to maybe what Taylor said. Somebody up there
2 that's buying these cows knows that we're having these
3 meetings.

4 MR. WEISER: I want to pick up on a point that
5 Robbie referred to and was referred to in the first panel
6 and couple it with another question, which is: How is
7 technology and the use of broadband where it's available
8 changing the marketing and selling of cattle livestock?
9 And secondly, what advice would you offer to a young
10 person looking to become a cattle farmer or rancher?
11 Maybe just starting at the other end of the table, both
12 technology and advice to the young ranchers.

13 MR. ZUHLKE: Would you say that again?

14 MR. WEISER: Sure. Do you use -- let me ask
15 two questions. Do you use technology at all to change how
16 you operate from, let's say, 20, 30 years ago? Has that
17 been something that's starting to enable you to operate
18 more effectively?

19 MR. ZUHLKE: Okay. Well, I'm right in the
20 middle of -- my three oldest boys are 26, 23, and 20, and
21 they're all becoming actively involved in the farming
22 operation. And hands down, their ability to use
23 technology -- you know, I have a hard time keeping up with
24 it. We do some farming on the side. And their ability to
25 use the GPS and those things are phenomenal.

1 Did you want other specifics?

2 MR. WEISER: Does it affect how you sell at
3 all, by the way? Some people, I think, mentioned that
4 they're actually able to use either value price
5 information or even selling directly over the Internet.
6 Is that -- have you seen that at all?

7 MR. ZUHLKE: If anything, that's my expertise.
8 That's one thing I have over those three boys, yes. And,
9 yes, I use the Internet every morning. I tend to start
10 looking at the markets -- obviously, we trade world
11 markets, you know, just constantly. And you can become
12 totally absorbed with the technology today. Everybody
13 knows that the grain -- everything trades. But I can get
14 up at five o'clock in the morning and you start to gather
15 information already; so, no, it's constant. I mean, I
16 probably spend two to three hours a day analyzing, whether
17 it's the grain market or, you know, the flow of the hogs
18 or where the demand is. I use it extensively.

19 MR. SENTS: Well, certainly technology has, I
20 think, led to this narrow trading window that we have, in
21 the cattle market especially. Each week we may have just
22 as short as ten minutes to an hour to trade our cattle.
23 And in years past, we used to wait until we could talk to
24 people at night; just to get ahold of people, before cell
25 phones and that type of thing. And we'd have bids that

1 would be good until the next morning or some extended time
2 like that.

3 So certainly, it's added to the pressure of
4 doing business. Of course, the information available
5 about the market and what's going on is almost information
6 overload at times too. But certainly, that has led to
7 some of these issues that we're addressing, the narrow
8 trade -- trading window and those types of things, along
9 with the decreased activity in the spot market.

10 And I'd like to respond a little bit about the
11 spot market and the value of these alternative marketing
12 agreements. And certainly, no one -- and we especially --
13 we've made a great investment in our facility to do
14 sorting, to try to find the product that is desired by
15 consumers in terms of quality, avoiding overweight --
16 overfinished cattle and those kinds of things.

17 And we, as much as anybody, don't want to see
18 cattle just bringing one price. And I know the proposed
19 rules do not do that. And it's extremely frustrating that
20 many of the nay-sayers continue to say that this is going
21 to eliminate those things. And we can think of nothing
22 more unreasonable, as the language of the law indicates,
23 than for that to happen. And I'm confident it will not
24 happen that way.

25 In terms of how to address that -- and I think

1 you'll hear some more detailed explanation this
2 afternoon -- certainly, whole captive supply issue is
3 something that has to be looked at. And how do we start?
4 Maybe there needs to be a plant-by-plant percentage; 50
5 percent. There needs to be input on it to develop what
6 that level is; that cattle have to be procured in the spot
7 negotiated market. And that gets back to the information
8 part that you're asking about too, then.

9 We need more information to know how many
10 cattle are actually negotiated for versus how many earlier
11 in the week too. So much of this is after the fact that
12 we get that information. If we could get that sooner in
13 the week -- because it impacts our decisions that week --
14 to know better what we're looking at in terms of what is
15 available in the negotiated market. And those are some of
16 the key things that I think we need. And there is great
17 premiums out there. And we have customers that have
18 focused on identifying those premiums because they know
19 the market generates them if we have access to it. So
20 again, market access is the key question we have.

21 And for the young people starting today, I
22 think it's important, first of all, to get the education,
23 to use the technology, be able to address the issues, but
24 also, then, that they're involved in these kinds of
25 discussions too to shape the policy that we have that's

1 going to impact the likelihood of our rural economies to
2 continue, the likelihood that they can come back. And
3 there is value -- economic value in having 10,000-head
4 feedyards distributed across our rural economy versus
5 concentrating just for market power alone in the
6 100,000-head feedyards.

7 MR. PETERSEN: Yeah. I access technology on a
8 daily basis. You know, I'm proud to say I sell a lot of
9 stuff, you know, through the Internet, word of mouth;
10 whatever. I sell local first, take care of my customers,
11 and then I sell in the Berkshire Goal. I'm proud to say,
12 unfortunately, that today I don't sell one hog to a
13 packer. I gave up on them. I got screwed over too
14 easily. And technology, yes. Again, I use it, but I'm
15 busy farming and -- you know, a couple of off-farm jobs or
16 whatever. And I guess my response is: You can't depend
17 on it and it's not the answer to correct the problem here.
18 We all know what the problems are; every farmer or rancher
19 sitting out in the audience.

20 I just want to bring up one more thing -- oh,
21 technology, evidently, has been very successful for the
22 packers. I think we all realize that.

23 One other thing I want to bring up. A good
24 friend of mine, John Crabtree, of the Center for Rural
25 Affairs, him and I have known each other for years; done a

1 lot of work together. There's some rule making going on,
2 and here's what's going on. The packers routinely pay
3 \$0.05 to \$0.06 more per pound or more in volume-based
4 premiums to the largest hog producers simply because
5 they're large. \$0.06 may not sound like much of a
6 discount. But I tell you what, for an independent
7 producer, the guy with 150 sows, farrow-to-finish
8 operation, trying to market on a yearly basis, that equals
9 \$56,000 of income. That's an off-farm job.

10 We don't need the whole slice of pie; we just
11 need fairness and equality. And this is very, very
12 important if we want to get the age of the farmers and
13 ranchers down to where they're farming 20, 30, 40 years
14 and not 10 years. Thank you.

15 SECRETARY VILSACK: I'm interested in this
16 issue of access. You-all have mentioned it at one time or
17 another in your comments, either having concerns about it
18 or being able to meet to -- to meet the needs. Tell me a
19 little bit about what you think the USDA ought to be doing
20 with its rural development programs to address this
21 issue -- or what could we do in terms of creating more
22 opportunities for more markets, and how could we do it in
23 a way that would be -- that would allow someone to make a
24 decent living by operating one of those facilities.

25 MR. HARPER: I guess to stimulate young

1 people, like we've been talking about, it needs to be more
2 profitable; low-interest loans or something to that degree
3 and in the like, I think, to get somebody in. But it's
4 not easy to get in anymore. Property values are extremely
5 high. The cost of our livestock right now are -- and on
6 the sheep side are extremely high. So you're talking
7 about, you know, a young person just off -- I don't want
8 to say off the farm -- most of the young people in our
9 industry have inherited, grown up in it, it's a family
10 operation. If they choose to continue to stay, they
11 continue on that way and they've got some resources there.

12 SECRETARY VILSACK: But my question is: If
13 you have to travel 100 miles or 200 miles or 500 miles to
14 basically sell your livestock, how could USDA provide a
15 closer market? Are there things that we should be doing
16 that we're not doing; things that would be able to be
17 helpful?

18 MR. HARPER: I don't know that I can answer
19 that.

20 DR. HAYNES: Well, certainly back to something
21 I mentioned earlier, Mr. Secretary, if the rules for the
22 state-inspected plants are released, then I would suggest
23 that the USDA do that so a state-inspected plant that
24 meets all the standards can ship nationwide.

25 That takes us back to local. Then you could

1 take your present cadre of USDA inspectors without having
2 to hire more and let them randomly inspect to be sure
3 these needs are met. See, the states would have to
4 maintain the standards. But you could randomly inspect to
5 be sure that's being done with your present cadre of USDA
6 inspectors, and that would free up local trade. That's
7 not an overnight thing. But the small packing plants
8 coming back will bring the small feeders back, will bring
9 meat production and sales down to a local level.

10 You mentioned technology earlier. The video
11 has actually exacerbated concentration because they can
12 get more cattle in one shot. And the fact that you maybe
13 get a nickel more, a nickel less, the problem is you're
14 not dictating the price based on what it costs you to
15 produce the animal. The only way to do that is direct
16 retail sales. And the only way, really, for most of the
17 people in this room -- whatever the product is -- is to
18 have local retail sales that -- at least regional retail
19 sales -- are local and regional packing plants that cater
20 to the small and medium-size producer.

21 We still have to solve the shelf space
22 problem. But I think we can do that in a cooperative way.
23 I think we can do that by having our individual states
24 regulate fair trade and monopolistic activities. So I
25 don't think the USDA has to do everything. But I think to

1 allow us at least the infrastructure -- which is what I
2 consider -- me, as a producer and the meat packer and the
3 small family feeder, really -- is the infrastructure in
4 supplying red meat and fiber to the nation.

5 So the USDA has a role in that. The retail
6 part of that, the supermarket part of that, I think that
7 goes back to the states. And we should, as producers and
8 taxpayers and voters, we should be able to deal with that
9 on a local level.

10 SECRETARY VILSACK: Robbie, you basically can
11 tell us about the economics of this. But what would it
12 take, if you were starting from scratch, to do what -- to
13 replicate what you're now doing with your operation? What
14 would it take? How could the USDA be helpful, apart from
15 inspection issues, but from a financial perspective?

16 MS. LeVALLEY: Again, when we purchased the
17 plant, it took significant upgrades to make it so that it
18 was -- that it did pass all of the USDA inspections. And
19 we are -- we will average two to sometimes even as many as
20 four -- but the majority of the time, there's two
21 inspectors and they're full-time. We welcome that. We
22 use that as a marketing tool to show that there is that
23 oversight for not only the food safety but for marketing,
24 in general. We use that.

25 One thing that in -- we talk about rural

1 development and we talk about what can be done for the
2 young people. There are -- we have received a value-based
3 marketing -- to expand our market into ready-to-eat
4 entrees. And we did receive a USDA rural-development
5 grant to do that. But that limitation on rural
6 development where you cannot build infrastructure,
7 purchase equipment under the rural development really
8 hinders.

9 You can study something until you're blue in
10 the face. But if you can't implement the results of your
11 study -- meaning you can't purchase that \$30,000 piece of
12 equipment without a significant rigmarole, that's where if
13 there was a lower base there that would be easier to work
14 with, that would truly help from the rural development
15 side. Now, there are programs where you can purchase
16 equipment. I certainly understand that. We've looked at
17 that over and over. But it's that onerous regulation --
18 again, we cannot regulate the marketplace -- that really
19 causes us trouble when we try to implement some of our
20 development grants.

21 SECRETARY VILSACK: Let me clear about this.
22 In terms of regulations, are you talking about the
23 application process or are you talking about some
24 restrictions in terms of geography?

25 MS. LeVALLEY: We're talking about the

1 restriction on what you can use those dollars for.

2 SECRETARY VILSACK: So flexibility in terms of
3 the dollars?

4 MS. LeVALLEY: Correct.

5 SECRETARY VILSACK: Okay. Any other panelists
6 want to weigh in on that?

7 MR. SENTS: Well, certainly, you know, the
8 programs that provide low-interest loans for beginning
9 farmers and ranchers, I think, are -- you know, serve a
10 good purpose that way to encourage that type of thing.
11 And the whole issue on the -- to address the efficiency
12 that is needed to operate some of these different packing
13 plants and that type of thing, you know, just continued
14 research in some of those areas that might benefit smaller
15 operations to succeed economically.

16 But I think also just enforcing the laws that
17 we have will do much to keep a diversified, efficient
18 operation size. And the -- GIPSA is attempting to do that
19 now. You know, another area that's going to have to be
20 addressed is -- this whole market power thing just gets
21 passed down the chain. We have to have it addressed at
22 the retail level to address what the packers, you know,
23 face in their operations, which is passed down to us,
24 then, and somehow get a handle on this distinction between
25 market power, size for that, versus the economy as size

1 efficiencies. And we've just shifted and went beyond
2 efficiencies to just accumulating market power.

3 MS. LeVALLEY: I'd like to address the
4 young-people side. I deal with young people in our area
5 on a daily basis. And there are five young producers
6 ranching -- again, families that have come back in the
7 last three years. They want to be part of the
8 infrastructure. They are -- struggle with just, as
9 mentioned earlier, the access to capital, the access to
10 the operating, especially now with the ever-increasing
11 regulation when it comes to operating capital. So there
12 is that willing desire to come back. But it's the overall
13 picture.

14 We use the Internet very well to market our
15 product to tell our story. We are all cattle producers
16 and we all have a quality product and we have people that
17 are external to this industry that are trying to say that
18 we are bad and that we are bad people and that we treat
19 our animals bad. That's how you can effectively use that
20 Internet to tell your story. Again, we are all cattle
21 producers.

22 But when we work with young people, again, on
23 a daily basis, they're concerned about, What is the sage
24 grass issues, endangered species going to do? What about
25 the estate tax? What is that going to be? What about the

1 clean water? What about dust? All of those things --
2 again, it's that increasing regulation that as we sit down
3 with young people, we really have to take the big picture.
4 There's so many external people out there that want us
5 out. We should not be circling the wagons and shooting
6 inward.

7 MR. HARPER: Mr. Secretary, that brings up a
8 good point, if I could mention one thing. We've got --
9 recently there was a decision made on the Payette National
10 Forest in Idaho. We're going to lose potentially five
11 ranching families in the sheep business. One of the
12 largest producers in the United States is greatly
13 affected.

14 And, you know, you talk about encouraging and
15 trying to get people to stay there. Ken's younger
16 brother's got three young children and he's excited about
17 the business, and now he's been kicked off the Payette
18 Forest because of bighorns. And there's been -- I think
19 the Carlson family is one family up in that area that's
20 been there since 1928. And they've lived there with
21 bighorns the entire time, and there's still been no
22 significant proof that disease is communicated back and
23 forth between domestic sheep and bighorn sheep.

24 But the easy quick fix is to just oust the
25 rancher and off he goes. And it affects -- it affects my

1 market because we buy lambs from them and we feed them and
2 we provide that product to the public.

3 MR. PETERSEN: As far as rural development,
4 you know, there's been a lot of money invested in rural
5 America, and I'm sure that will continue. But we need to
6 invest in our main streets and infrastructure that, quite
7 frankly, in this day and age promotes and enforces more
8 localized agriculture. Okay? The State of Iowa invested
9 in Supreme Pack in northwest Iowa. That's where some of
10 the Niman ranch hogs go and that's where some of the
11 Berkshire Gold hogs go. It's providing a service to
12 small, independent producers.

13 And, you know, the last thing I want to see
14 is -- and backing up a minute, we need to evaluate who's
15 going to benefit first from rural development funds. You
16 know, I see a lot of bad things going on; I see some good
17 things going on. The last thing I want to see is
18 guaranteed loans put out there by the feds and the
19 taxpayers to back up vertically integrated packing
20 facilities.

21 MR. WEISER: Alden, do you have a point?

22 MR. ZUHLKE: Yeah. Again, I'm just speaking
23 from experience. My second son is actually using equip
24 funding, and that's been a very -- the oldest son used it
25 also, and I've used it in the past. That's been very good

1 for us. He's also -- the second one is also looking into
2 young farmer ownership. And there's, obviously, a lot of
3 requirements. And he has the ability to do the paperwork
4 to get it done. So we will get it accomplished. But, you
5 know, I don't want to make light of the fact that one
6 thing that they are requiring is that he has a three-year
7 contract to sell his hogs to somebody.

8 So, you know, the contracts are very important
9 for these young people. That's the only way the bankers
10 are going to let them secure these loans.

11 MR. WEISER: So a question that has been
12 diverted too -- I want to pick up on it -- is premium or
13 niche offerings that give people a differentiated product.
14 How significant is that and how real is that opportunity?
15 I think a couple of people have mentioned it. Taylor, you
16 mentioned that in your case, and Robbie as well. Why
17 don't you start and then others --

18 DR. HAYNES: Yeah. That niche is two-tiered
19 for us; certified grass fed, organic. Obviously, retail
20 is where the great deal is. And retail can be six-,
21 seven-fold over -- over what the commodity price is. But
22 on my wholesale side, we run about 30 percent -- we'll
23 average 30 percent in our prices than retail market.

24 But everything that happens on the commodities
25 side for fed cattle affects us. Because if we don't take

1 a contract, if we don't cut a deal with a major purveyor,
2 then the only place we can go is the commodities side. So
3 they use that against us too. But it does provide us some
4 margin and some cushion to be certified organic. And
5 there are a fair number of hoops to jump through, so it's
6 not just something you do. It's a way of life and it's a
7 mindset. But it's not hard to do. It's not rocket
8 science at all.

9 For young people, my son -- I'm the fourth
10 generation in ag -- production ag since slavery,
11 continuously, and my son is the fifth. And for him, the
12 fact that we're certified organic -- and he is an
13 excellent marketer; we do Internet sales as well -- that
14 really is the thing that allows him to come in and have a
15 future in the business.

16 MR. WEISER: Robbie.

17 MS. LeVALLEY: Value-based marketing has given
18 our family and our direct marketing business the
19 opportunity to compete at the highest level. But even
20 before we started Homestead Meats -- again, that
21 value-based marketing where we had that relationship with
22 the individual that provided the feedback -- that gave us
23 the information to improve the quality of our cattle. And
24 when we improved the quality of our cattle, then we had a
25 significant increase in the choice grade.

1 When we had the significant increase in the
2 choice grade in our cattle -- and there was an increase in
3 that subsequent price received for the cattle -- that's
4 value-based marketing. And that was the only way that we,
5 as someone who was in that 300- to 500-head range, can
6 actually take advantage of that quality and compete. It's
7 having that quality-based contractual agreement that
8 rewards quality.

9 MR. WEISER: Mike, did you want to add --

10 MR. HARPER: No.

11 MR. WEISER: Allan?

12 MR. SENTS: I'd just say we've seen a great
13 benefit -- we are a CAB-licensed feedyard; certified Angus
14 beef. And since beginning that about 12 years ago, we've
15 made improvements in our facility, also the training of
16 our people, and also then the quality of cattle that we've
17 handled. And a lot of that's been the information we've
18 provided back to the rancher to make the improvements that
19 have been mentioned. So we've been real active in that
20 process.

21 And the neat thing about that -- yeah, there's
22 some of these niche programs that are great for the people
23 involved in them. But in terms of the volume of premiums
24 available, they rest in the USDA-identified grades --
25 prime, choice, certified Angus beef -- that are available

1 to anybody. Those premiums are determined in an openly
2 negotiated marketplace. It doesn't take specialized deals
3 to get access to those things. And those are premiums
4 that are determined in the marketplace. And we have found
5 great value in them and appreciate that and that know they
6 will be continued, even under, you know, updated rule
7 changes and that type of thing.

8 So we have found great value in them and
9 certainly look forward to being able to capture that in
10 the future and know that that will happen.

11 MR. PETERSEN: Well, the number one thing
12 about, you know the niche market is there's good profits
13 in them. And, you know, the Berkshire program they sell
14 private -- and the Berkshire Gold -- their profits are
15 basically one-third to double, you know, the price of what
16 you're getting for your livestock.

17 Now, we've got to get smarter in the 21st
18 Century here with food. And I'm talking about food miles.
19 You know, food travels, on average, every bite you take,
20 1,500 miles in this country. And in the time of us trying
21 to deal with energy costs, we've got to rethink the whole
22 structure of agriculture here. There's things we need to
23 promote more than others. There's other things we need to
24 discourage.

25 And my priority -- I'm a firm believer, you

1 know, it's safer to eat -- quality control is great
2 because I eat it too. And I don't use antibiotics and --
3 and, you know, the quality is there. And that's -- a
4 wonderful thing we used to have in this country 20 and 30
5 years ago was a more localized regionalized food system.
6 It worked. It worked. We fed this country for decades.
7 It worked. And my personal opinion is that, you know,
8 letting this consolidation and concentration get out of
9 hand has contributed to the public health crisis in this
10 country and has contributed to the food safety problems in
11 this country. And, you know, I'm from Iowa. You-all have
12 been reading about the ag recalls and the concentration in
13 the ag industry. I hope I made my point. Thank you.

14 MR. LIVERMONT: Secretary Vilsack --

15 SECRETARY VILSACK: Yes.

16 MR. LIVERMONT: I think these niche -- these
17 niche markets are good. But I'm thinking we probably
18 can't all get into niche markets. You mentioned what you
19 could do to get maybe the market closer. Well, I don't
20 have a problem with hauling my cattle to a market to get
21 price discovery. I mean, that's where we find out what
22 our cattle are worth and to, you know, just let everybody
23 bid on them that wants to.

24 Well, the problem we've got is getting our
25 fair share of them that the packer allows us to have, it

1 looks to me like. And I -- that's kind of -- kind of the
2 biggest thing of people -- these young folks in business,
3 is being able to get their fair share.

4 MR. WEISER: If I could follow up on that
5 point. You and Taylor said something. How far is too far
6 in terms of -- to have to haul your cattle? When does it
7 become cost prohibitive? Either of you can jump on that
8 point.

9 MR. LIVERMONT: It's a good question. I --
10 we're lucky in Western South Dakota. We've got markets
11 everywhere. I mean, we've got markets within 50 miles of
12 us and some people would rather go 100. I mean, it's just
13 their preference.

14 DR. HAYNES: Anything over 100 miles, I ship
15 it frozen; cut and wrapped. And live cattle, I try and
16 keep it under 100 miles. And I like to rest them once
17 they get there at least a day or two before they are sold.

18 MR. SENTS: Yeah. It's a bigger issue the
19 bigger the animal, I think. So for the finished cattle,
20 especially, we find, once we go -- it's about 180 miles to
21 the furthest plate -- plant in the state for us. And once
22 we go beyond that, we begin to see bigger issues in terms
23 of shrink and dressing percentage loss and that type of
24 thing. So certainly they travel further, but we find that
25 to be kind of a workable distance.

1 MR. PETERSEN: Yeah. The way it used to be
2 compared to the way it is today in the last few years --
3 when I first started raising hogs, you know, you'd haul
4 them 10 miles down the road and they'd get weighed up
5 and you get a price. And, you know, it got to be where my
6 hogs were traveling 100, 200 miles to get to the market
7 as -- and, thus, we consolidated. And you're paying the
8 freight and you're paying the shrink. Because them hogs
9 are not weighed until they get to that facility. So,
10 yeah, it's a huge discrepancy in the prices you're
11 getting.

12 MR. ZUHLKE: You know, I'm fortunate in
13 northeast Nebraska. You know, currently, I think it's
14 about 180 miles is the farthest packer. But I've spent
15 some time with some of the Montana guys. And, obviously,
16 they have a challenge. I -- you know, I don't remember if
17 it was 1,800 miles. It was a tremendous haul that they
18 have to haul. So their costs -- you know, it's tough.
19 You know, typically what happens in the hog industry is
20 they may become the icewing provider, which they can haul
21 greater quantities and then have them fed out in the
22 Midwest, so . . .

23 SECRETARY VILSACK: On the USDA Web site with
24 the "Know Your Farmer, Know Your Food" KYF area, there are
25 maps of the country. We've tried to begin the process of

1 trying to identify precisely where all the facilities are
2 so people can visually see where the gaps are. And I
3 think it's fair to say that -- you mentioned Montana. In
4 that part of the country, it is a challenge.

5 Now, in other parts of the country, there are
6 probably significant numbers and fairly convenient
7 opportunities. But in other parts of the country, there
8 are serious holes that probably need to be addressed,
9 which is one of the reasons why I asked the question about
10 rural development resources, whether or not we could
11 better use and better target those resources and meet that
12 opportunity if it was financially feasible to do it.

13 We have just a few more minutes left in this
14 panel. And I think what follows, if I'm not mistaken --
15 John Ferrell -- is that folks pick up lunch and then they
16 come back for the opportunity for people to comment.
17 There will be numbers posted, I think, on the screen. And
18 if your number is there, you just stand in line and your
19 comments will be taken down. We have a reporter here.
20 And we appreciate the hard work of transcribing something
21 like this so that we have an accurate record. So we'll be
22 in the process in just a few minutes of starting that.

23 I'd like to give everyone just a minute to
24 summarize and put it in this perspective. If we came back
25 here because the good doctor made sure that we were all

1 healthy five years from now, what would you like to see
2 the situation to be? How would the conversation hopefully
3 be, either the same or different?

4 MR. HARPER: Well, we've heard the same for so
5 many years, we're kind of accustomed to that. But I would
6 like to see definitely, the way we've about it -- we've
7 got to do something to stimulate some young people to get
8 back into agriculture some way, somehow.

9 We've seen nothing but our numbers decreasing
10 in the livestock industry. We've got to relax some of
11 these restraints on public lands. We've got to help our
12 ranchers with gradation. We've brought back the wolf.
13 We've protected the grouse. We've been -- the bighorns.
14 And the consequences of that are diminishing numbers in
15 the livestock industry. And if we don't work on some of
16 that stuff, I don't know that we can bring it back.

17 So I hope if we do this in five years, if you
18 guys would consider having me back up here, it would be a
19 whole lot better picture.

20 DR. HAYNES: Mr. Secretary, I would like to
21 see the room full, I would like to see the average age in
22 the room be about 40 or 35, and I would like people
23 talking about problems that they're having because we have
24 so many outlands now, so much direct marketing, and we're
25 making so much money we don't know what to do with it.

1 And I would like us to -- as an agricultural community as
2 a whole, I would like us to be somehow able to communicate
3 to consuming America that we really are the
4 environmentalists, that we really are the people that care
5 for the land and the animals.

6 So when we come back in five years, we won't
7 be concerned about consolidation because we'll be
8 decentralizing. We won't be concerned about imported
9 foods because the quality does not compete with what we're
10 producing. If we can somehow touch the market, that will
11 work itself out without regulation. So I'd like to see
12 that problem solved in the next five years.

13 MS. LeVALLEY: In five years, I would echo
14 that I would like to see the young people here also. But
15 I was reading minutes from an affiliate -- a cattle
16 affiliate from 1946. And here in 1946, the minutes were
17 they were concerned about the average age of the producer.
18 They were concerned that producers were getting off-farm
19 income.

20 So in five years, what I would really like to
21 see is again that there is that, more young people, and
22 that we have that true story about the good that we do,
23 not only for our animals and for the safe food supply that
24 we provide to the American people, but that message is
25 clearly communicated and understood outside of just our

1 circles that we really truly have that connection with
2 those individuals that may not understand how we do things
3 and care for animals.

4 But what also -- all of the information that's
5 been presented in the first panel and this one has been
6 good. But what we really need is that in-depth analysis
7 of the -- of all of these changes that are occurring or
8 being talked about and understand the unintended
9 consequences.

10 The proposed rule signifies structural change
11 with very vague language. And what I really want is there
12 not to be that vagueness so that we do have that young
13 person that can -- has that assuredness that, no, I'm not
14 going to be taken out because of that ever-increasing
15 regulation or because of the constant threat of litigation
16 in the business. Whether it be from something as simple
17 as the endangered species -- that's a joke -- or our own
18 marketplace.

19 So again, I would echo what everyone has said
20 about the young people. But I want the in-depth analysis,
21 and not litigation and intervention, that determines and
22 drives our ability for our young people to be in this
23 market.

24 MR. LIVERMONT: Well, I -- along with the fact
25 of wanting to see more younger people here five years from

1 now and quite a lot younger -- just picking out some parts
2 of this -- of the speech I thought I was going to give,
3 because the cattle industry is the economic backbone for
4 much of Indian country, the federal government must take
5 steps to prevent the concentrated beef packers and the
6 concentrated cattle feeders from engaging in the practices
7 that are eliminating the economic opportunities for
8 individual Indian operators.

9 We must preserve competition, not just in the
10 market between the cattle feeder and the beef packer, but
11 also in the market where Indian operators sell their
12 calves to backgrounders, stockers, and feedlots.

13 Competition is what prevents the beef packers from
14 controlling the cattle supply chain like they now control
15 the hog supply chain. And, I mean, that's -- that's what
16 we're up against. That's where our problem is.

17 MR. PETERSEN: Well, it's a heck of a wish
18 list I was writing down here. I could just keep writing.

19 SECRETARY VILSACK: You've only got a minute.

20 MR. PETERSEN: I've only got a minute the
21 secretary tells me. Well, you know, like I mentioned
22 earlier, I'd love to see the packers have to go out to the
23 countryside to bid hogs and cattle and whatever else
24 again. So, you know, ban them from owning the critters.
25 That's the first thing.

1 I'd like to see everyone benefiting out of
2 this restructured system. And I mean everybody: the
3 family farmers, the consumers, and the packers. They
4 always have made money. They just got a little greedy
5 here. I'd like to see the environment benefit. We need a
6 cleaner environment throughout this country. Iowa,
7 unfortunately, is 50 of 50 in water quality. To me,
8 that's an embarrassment for our state.

9 I would like to see rural development working,
10 population stabilizing, beginning farmers wanting to farm.
11 I would like to see the food miles coming down on more
12 localized agriculture. I'd like to see food safety --
13 better food safety, starting with family farms again
14 raising and owning the livestock, and the animal husbandry
15 issues out there. I think every independent producer
16 knows that any independent family farmer takes far better
17 care of them animals than anyone else on this planet.
18 Thank you.

19 MR. SENTS: In this country, we value our
20 freedom, I think, as much as anything. And if we're
21 honest with ourselves, we recognize that all freedoms we
22 enjoy are protected in some way. There's always an
23 individual, an entity, that in their own self-interest
24 will try to extend into the freedom of another. So we
25 want to recognize the freedom of individuals to contract

1 or make agreements as they wish, but we also recognize the
2 need for limits when that freedom imposes on the freedom
3 of another people.

4 If we will pursue a policy that will halt this
5 trend of concentration of size to just achieve market
6 power and we can diverse that through our rural
7 communities and pursue a policy that allows the most --
8 the smallest economically efficient unit to survive, we
9 will disperse and keep -- spread out in our rural
10 economies in an active industry that will provide
11 opportunities for our young people.

12 So it's my hope that we will pursue policy
13 that allows those economically efficient units to survive
14 by securing that they've got access to a market. And if
15 we do those things, it will help the survival of our rural
16 economies, the employment of our young people, and the
17 best thing is it won't cost the federal government a dime.

18 MR. ZUHLKE: I think it's important that you,
19 you know, try to focus on some of the things we agree on.
20 And hopefully, everybody in this room would raise their
21 hand that we're all meat eaters. That's one of the
22 things -- you know, our industry, obviously, is worried
23 about packers and concentration and the spot market. But
24 what's being forced on us, not only regulations, you know,
25 within the environment -- which some of those we do need

1 to deal with. There's no doubt about it. But, I mean,
2 the groups that are coming at us and telling us we need to
3 raise animals in a certain way is probably a real concern
4 in our organization.

5 But there's one common theme in this group,
6 you know, and that is the thing -- we all want young
7 people back involved. You know, somehow we have to turn
8 the world around. I have just one little perspective. I
9 think that camera is pretty good. But there's -- our two
10 youngest kids are actually adopted. And I don't know if
11 that shows up on there or not. But anyway, we adopted
12 them from Haiti.

13 And so the underlying freedoms that we still
14 have in this country, you know, are enormous. In fact, I
15 spent time down there at different times. And the
16 restrictions they have -- you know, their best day, you
17 know, is not good. You know, it's a real challenge. So
18 we've got some real positives on here. And hopefully, we
19 can all work together and focus on things that will
20 improve and help each one of the industries and also look
21 at each individual industry. Because we are -- we are
22 diverse.

23 SECRETARY VILSACK: Phil, do you want to talk?

24 MR. WEISER: I think the one thing that's
25 worth saying is what was said at the outset -- and we're

1 only halfway through the day -- the amount of learning and
2 getting experienced people who are on the ground is
3 invaluable. And the aim here is this is not the end of a
4 process; it's really the start of an ongoing process to
5 make sure we're getting from you-all your perspectives,
6 your ideas. And even if someone out there doesn't know
7 all of the dynamics at work, that's our job, to take that
8 information and make sense of it. So thank you for
9 helping us -- enable us to do our jobs better.

10 SECRETARY VILSACK: I want to thank the panel.
11 And I want to take, I guess, a personal privilege for just
12 two minutes to speak about what I've heard and what I've
13 heard as I've traveled to virtually every state in this
14 country. There really is something at stake here more
15 than what we've talked about today, which is the
16 livelihood of good, hardworking producers and more than
17 the capacity of rural development, rural economies to
18 survive and small towns to thrive. It is really, as
19 Governor Ritter suggested, about the value system of this
20 country.

21 As I travel around the country, I try to tell
22 our urban and suburban friends something about rural
23 America, and the best statistic I give them is the
24 following: One-sixth of America's population lives in
25 rural America, but 40 percent of the men and women in

1 uniform come from rural America. So 40 percent of those
2 100,000 troops that are coming back from Iraq probably
3 live in small towns, probably grew up on a ranch or farm.
4 40 percent of those 130,000 young men and women that risk
5 their lives in Afghanistan are from those small towns,
6 those farms, and those ranches.

7 Why is that? Now, some would suggest that the
8 reason is because they seek opportunity through the
9 military for a better life. And that may be part of it.
10 But I think there's something more at work here, and that
11 is how young people are raised in rural communities across
12 this country. They are raised with a very simple set of
13 values. Hard work is its own reward; you are responsible
14 for your actions.

15 And they also understand something about
16 Mother Nature, which is that you can't keep taking from
17 the land; you have to give something back. You've got to
18 replenish it from time to time. And when you do, Mother
19 Nature will reward you with good and bountiful crops. The
20 country is no different. You can't keep taking from it.
21 Periodically you have to give something back. These kids
22 understand that because you-all have taught them that.

23 So as I travel around this country talking
24 about the importance of farming and ranching, I go beyond
25 the food supply, the fact that you're responsible for 85

1 percent of the drinking water in this country, the fact
2 that you're also helping to clean the environment, the
3 air, through carbon sequestration, which you-all do in
4 your fields. I talk more about this set of values.

5 To me, what USDA ought to be about -- and
6 hopefully it is about and under my leadership we're making
7 sure it's about -- is expanding export markets, creating
8 more domestic opportunities, and having more local
9 consumption and production being linked, making sure that
10 we do pay attention to food safety because that does and
11 can impact markets -- and certainly, the innocent get hit
12 very, very hard when there's a food-safety incident --
13 making sure that we use our rural development tools in a
14 way that will help build up those local market
15 opportunities and create the off-farm income that many
16 farm families still need today and, in the foreseeable
17 future, will likely have to have. That is part of the
18 work of USDA.

19 These hearings are also part of our work,
20 which is to ask tough questions, to stimulate important
21 and significant debate on how markets are functioning,
22 who's benefiting, who's not and why, so that we can do a
23 better job of making sure that that value system that I
24 talked about remains alive and well. I think it's at the
25 core of this country, I think rural America is the soul of

1 this country, and it is worth preserving and fighting for
2 and worth making the difficult decisions that will have to
3 be made in order to do the very best job.

4 So I want to express my appreciation to all
5 who are here today because you all care deeply not just
6 about your own operations, but your community and about
7 rural America. And that says a lot and hopefully the rest
8 of the country is paying attention. Thank you all.

9 (A recess was taken from 12:03 p.m. until
10 12:41 p.m.)

11 MR. FERRELL: So why don't we go ahead and get
12 started. What we'll do is we'll just go back and forth to
13 each microphone and we'll just take your comments. I do
14 ask that if you feel comfortable providing your name, say
15 it very carefully so that our court reporter can have it
16 transcribed correctly. If you don't feel comfortable
17 providing a name, you don't have to do that.

18 So with that, why don't we go ahead and get
19 started. And we'll start over here.

20 MR. SANDERS: Good afternoon. My name is
21 Chris Sanders. I'm with the United States Food Commercial
22 Workers Union. I'm here with about 100 people from all
23 over our union. We represent unionized grocery clerks and
24 meat packers. I'm personally from Kentucky. I traveled
25 all this way to speak on behalf of 20,000 grocery clerks

1 and meat packers and on behalf of 1.3 million members of
2 our great union across North America.

3 I want to say the same thing here that I said
4 in Alabama, what my brother said in Madison, Wisconsin,
5 and what my president has been saying everywhere he goes,
6 which is this: If we're not dealing with the retailer in
7 these hearings, then nothing really matters. We have to
8 deal with the monopoly that is dominating any and all
9 other monopolies beneath us.

10 Some folks are afraid to name names in the
11 room. I'm not. The biggest -- the most troublesome of
12 them all in retail is Wal-Mart. Wal-Mart, bigger than the
13 next three grocery chains combined, is driving the change
14 in the food dollar that's hurting workers, that's hurting
15 ranchers, that's hurting producers, that's hurting the
16 packing-house counties. They take too much and they give
17 us too little. We've got to do something about that.

18 So I want to say to the Department of Justice,
19 to the Department of Agriculture, and to the Federal Trade
20 Commission, who is not here yet but needs to be in these
21 proceedings, you've got to do something about Wal-Mart.
22 If we don't, all the other changes aren't really going to
23 make much difference. And the moment is here. We won't
24 have another moment like this for years and years to come.
25 We have to do something this time.

1 I want to say one more thing too. If there
2 are folks here from the industry, if there are folks here
3 from Wal-Mart, they should come to this microphone. They
4 should speak out the same way that we speak out. They
5 should speak out in front of everybody, transparent, and
6 express themselves. Don't wait to go to Washington, fly
7 in, have a power lunch, do your thing, and hide behind
8 your silk suits, your fancy cars, and your big dollars.
9 Speak your piece in front of everybody. Express your
10 feelings. That's what America is all about. Please,
11 please, please, do something about Wal-Mart. Thank you.

12 MR. FERRELL: Sir, we do ask that when you
13 come up, do provide your ticket so that we know that
14 you've been called on.

15 We'll now go over here.

16 MR. LEWINE (phonetic): Good afternoon. I'm
17 Steve Lewine. I'm in the farm division of the Iowa
18 attorney general's office. My boss, Attorney General Tom
19 Miller -- my boss, Attorney General Tom Miller wants to
20 thank Attorney General Holder and Secretary Vilsack for
21 the opportunity to discuss these issues. We've been
22 involved in working on issues involving access to free and
23 open markets for livestock producers for -- since 1995.
24 We've been involved in many different projects in that
25 area.

1 One of the things we were involved with was
2 developing a Model Producer Protection Act, which provided
3 a series of protections for livestock producers that
4 were engaged as contract producers for processors and
5 other integrators. That act has not been fully adopted by
6 any states. Several parts have been adopted in Iowa.
7 Also, in the 2008 Farm Bill, several portions of the
8 protections included in the Model Producer Protection Act
9 were included as part of that act. In addition, the new
10 rules proposed by GIPSA include additional protections
11 that were included in the Model Producer Protection Act,
12 and we are supportive of those provisions.

13 Finally, in 2003, our state was sued by
14 Smithfield Foods in a constitutional challenge of our
15 corporate farming statute, specifically the provision that
16 prevented processors from being engaged in contract
17 production in Iowa. After about five years of litigation,
18 we resolved that suit with a settlement pursuant to which
19 Smithfield agreed to voluntarily implement most of the
20 provisions of the Model Producer Production Act with
21 regard to their contract producers in Iowa. Shortly after
22 that, Tyson Foods, Cargill, and Hormel entered into
23 similar consent decrees with our office whereby they
24 agreed to live by the protections in the Model Producer
25 Protection Act with regard to their contract producers.

1 Since that time -- I wanted to point that out
2 because we hear a lot today about how those provisions may
3 stifle certain portions of the livestock sector. In Iowa,
4 since the bill's entities have agreed to live by those
5 guidelines that were set out, the contract production in
6 Iowa has actually increased and is far from stifling. The
7 industry has increased. We have more contract production
8 in Iowa now than we have had anytime in history.

9 Again, our office has been involved for a long
10 time with these issues. We're anxious to provide whatever
11 assistance we can with regard to developing a final rule
12 with GIPSA, with other attorneys general from other
13 representatives from the industry, and with other agencies
14 of the federal government to be involved in developing a
15 final rule that works for all parties in this industry. I
16 think everyone's goal is to develop the best market
17 discovery, the best access to free and open competitive
18 markets for farmers that we can. Thank you.

19 MR. HAYES: I'm Scott Hayes. I'm an
20 independent pork producer from Missouri. I would
21 encourage the Department and DOJ to look at what happened
22 in Missouri about ten years ago when we passed similar
23 legislation on price discovery.

24 The governor -- in seven months, the governor
25 called a special session just to do away with that

1 legislation it was such a mess, such a fiasco. But in
2 that period, we lost the only packing plant that was
3 killing independent hogs -- independent producers' pigs.
4 The University of Missouri says that the pork producers in
5 Missouri lost \$5 per pig during that period. And we
6 continue -- that continues to cost us now because we have
7 to ship our pigs farther away.

8 The other thing I'd like to say is it's my
9 understanding from the World Health Organization that we
10 have to double food -- the food supply worldwide in the
11 next 40 years. That's going to provide a lot of
12 opportunity for young folks. It's going to provide a lot
13 of opportunity for people like myself. There's nowhere in
14 the world that can do a better job of producing pigs than
15 we can right here. So I ask the Department to just leave
16 us alone and let us produce. Don't raise the cost of our
17 production where the foreign countries can outproduce us.
18 Thank you.

19 MR. FERRELL: Just a real quick point. If
20 someone is in a spillover room and they see their number
21 up on the screens, they can come -- go ahead and come in
22 and line up at the microphone.

23 MR. MEYER: Thank you. I'm Vaughn Meyer, a
24 producer from Northwestern South Dakota and chairman of
25 the South Dakota Stockgrowers Marketing Committee. And

1 I'd like to relate briefly to that which will not be said
2 here today.

3 The silence here today is representative of
4 the 370,000 producers who through the past 16 years have
5 lost their hopes and dreams in production agriculture.
6 That silence is also from half a million family members
7 that saw their last hopes and dreams of their ranch in
8 rearview mirrors. That silence is also from the 215, 000
9 main-street businesses that have exited our small towns in
10 the last decade.

11 This issue is not about organizations against
12 organizations or producers versus feeders, packers, and
13 retailers. We are here today to strengthen the previous
14 rules in order to rebuild America's largest industry --
15 family agriculture -- a rebuilding that once again will
16 put the laughter and prosperity into our small towns, a
17 prosperity that will carry into our major cities and to
18 the footsteps of our capitol, a prosperity that will
19 rebuild the foundation of this great country that it
20 was -- was once founded upon, and a prosperity that's also
21 to prerequisite for our national security and our
22 industrial superiority of the United States of America.

23 Mr. Secretary and Mr. Butler, on behalf of the
24 South Dakota stockgrowers, I thank you for the
25 once-in-a-lifetime opportunity to stand before you today

1 and witness the rebirth of family agriculture. And as a
2 member of the South Dakota stockgrowers, we proudly
3 support your endeavors.

4 Now I have one quick question someone answered
5 in relation to Secretary Vilsack's comment on developing
6 foreign markets. As a member of our South Dakota Beef
7 Council, I applaud these efforts and -- we work hard to
8 develop those markets and we can sure help in developing
9 those markets. However, that's as far as we can go. We
10 do not have control of those foreign markets just like we
11 do in our U.S. markets. Those markets are all
12 concerned -- controlled by the same people that are
13 controlling us here domestically. Thank you.

14 MR. HOFFMAN: Hello, panel. I thank you for
15 the opportunity to speak to you. My name is James
16 Hoffman, Fort Pierre, South Dakota. I'm a cow-calf
17 operation and ranch. And it all boils down to
18 profitability to keep the farmer and the rancher on his
19 land. And some of the things that sort of took this
20 profitability away is the interstate eliminating of small
21 packing houses. Where in South Dakota, we've got three or
22 four states right around us, Nebraska and Iowa -- in
23 Nebraska, a small butcher cannot sell his product across
24 the line, which puts a great handicap for the smaller
25 towns.

1 Same way with our marketing our cattle, where
2 it's been stated before where you've got one day or one
3 hour or 15 minutes to make up your mind when you go to
4 sell or not. And packer ownership -- when they've got
5 ownership, they can control everybody else. Because when
6 the price is high, they'll sell it by their own and sell
7 them. When the prices are low, they'll buy your cattle.

8 And another thing that the -- several of our
9 stockers went to court against -- one of them was against
10 IBP and they beat them. And the jury awarded the
11 stockgrowers -- or the stock producers a large sum of
12 money. And the judge says, I don't know how to divide
13 that up, so we'll throw it out. Well, what good is our
14 justice system with our jury of 12 people and a judge
15 overrules? I call that dictatorship.

16 And there's -- I'll cut this briefly. One way
17 to keep the farmer and rancher on there -- I'm getting
18 ready to -- very close to retirement. If you do away with
19 the inheritance tax and give it to a son or daughter
20 that's on the ranch, and as long as that son operates that
21 ranch for ten years, that tax would be forgiven. And then
22 for the next generation to pass on, establish the value of
23 that land at the time the first giver gave it away. So
24 when the second son, or the one to do his land, you'd have
25 a basis for inheritance tax down the future. And this

1 would not cost the government anything. It would greatly
2 enhance the rancher and the new rancher coming in.

3 I thank you for your time and God bless you.

4 MR. SINETT (phonetic): Thank you very much.
5 My name is Richard Sinett, and I'm a cow-calf cattle
6 producer there in California. And I'm here to defend the
7 cash cattle market.

8 The cash market's reported to be approximately
9 50 percent of the total market. This cash market's
10 already thin as a result of the structure of the industry
11 and the number of outliers which do not reflect the true
12 market. The only way to protect the cash market is to
13 halt the growth of captive supplies and possibly even roll
14 back practice. As it should be, the language of Section
15 2(a) and (b) of the Packers & Stockyards Act does not
16 require the finding of harm to the industry. The
17 definitions and clarifications found in new proposed
18 regulations attempt to make that clear.

19 I am here to support the adoption of the
20 proposed rules and regulations. However, some small
21 adjustments might be necessary after some of the things
22 I've heard today. However, how is it that if I strong-arm
23 someone out in the hall I could be put in jail, but if
24 a -- but to receive just and due compensation for my hard
25 work and efforts, I have to prove that there is an injury

1 to the industry and not just to myself? That's a pretty
2 ridiculous test to overcome.

3 So I would appreciate your consideration of
4 these new proposals. And I thank you for your time and
5 your presence here. Thank you.

6 MR. SHOEMAKER (phonetic): Herman Shoemaker,
7 Prairie, South Dakota. And I can't appreciate enough the
8 meeting that we're having here today.

9 I want to talk about a couple of issues. I'll
10 get along as fast as I can. If I understood Ms. LeValley
11 correctly, she markets one-third of her cattle through her
12 niche market and two-thirds go, then, to a feedlot where
13 they also get an added value. And then my question to her
14 would be: The two-thirds that she does go to feedyard
15 with, does she go to one like Mr. Sents' where he has a
16 10,000-head feedyard? But if I understood him correctly,
17 he gets less money for his cattle than the larger feedlots
18 do down the road just simply because of volume.

19 So how much of this market today is not
20 value-added based but volume based? And right now,
21 today -- yep. And, you know, another thing that's not
22 been talked about at all today is the intimidation factor.
23 Now, I'm a fellow you probably read about that -- Tyson
24 Foods hung a sign on my door "No Trespassing." We beat
25 them in the courtroom. The appellate court overturned it.

1 They turned back on me and two other individuals in trying
2 to collect their court fees for that.

3 So the intimidation factor being, a man like
4 Allan Sents -- now, I myself, am a 10,000-head feedyard
5 owner. And Allen Sents, the courage that he takes to go
6 up there and testify today when knowingly they could very
7 well intimidate him and stay out of his yard -- I've had
8 that experience. I've -- I was a livestock market owner
9 for 30 years. And I tell you what, if I would treat one
10 of my customers that way I've gotten treated by Tyson
11 Foods, I wouldn't have a head -- I couldn't have gotten my
12 own cattle to go there.

13 But what I'm saying is I've had Tyson Foods
14 come bid on my cattle and give me -- give me that
15 five-minute window. And when we talk about all the
16 technology that's out there, there is no technology until
17 about five minutes on Friday afternoon when they finally
18 post the price maybe; sometimes not until Monday. But
19 anyhow, I've been hold that, Either you take this price or
20 you're going to have to go into next week.

21 Well, if they're customer cattle, I call up
22 the customer and say, Are you ready to sell them or --
23 yeah, he'll say, go ahead and sell them. I'll call IBP
24 back and they'll say, Well, it's too late now; we're going
25 to put you in the next week. Okay. Then you panic. You

1 sell them, right? He'll call you back the next day and
2 say, By God, Herman, we found room for them; can you load
3 them Sunday for Monday morning's kill? Now, that's a
4 downright outright lie, and I've experienced it. I've
5 been in the feedyard business for 25 years.

6 So I tell you what, the intimidation factor
7 out there is real. There would be more food lots here, I
8 guarantee you. But there's fear. And I guess I've pushed
9 the -- I've pushed it far enough to where they've had the
10 courage to put a sign on my door. But like I say, there
11 would be more feedyards here if the fear wouldn't be
12 there. So thank you again very much. This is a moment in
13 time.

14 MR. WEBER (phonetic): Mr. Secretary, my name
15 is John Weber. I am a pork producer from East Central
16 Iowa, and I'm here to share a few concerns that I have
17 about the new GIPSA rules that were handed down in June
18 and how they regard -- affect the pork industry. And I
19 realize that the different species have different issues
20 and different problems, and I respect that. But
21 certainly, some of these rules are very problematic for
22 the pork industry.

23 I've been a livestock producer my entire life,
24 raising both cattle and hogs in East Central Iowa. For
25 the last 20 years, I have focused on pork production,

1 raising my own hogs, as well as custom feeding for a major
2 packer. I have been involved in just about every
3 marketing contract arrangement and future's head position
4 that you can imagine and have recently entered into a
5 production contract with a major packer.

6 It is this ability to use these tools that has
7 helped me in my business. It is also allowing my son to
8 take over the business with better risk management.
9 Production agriculture by nature is an extremely
10 competitive business. Regardless of its size, it is
11 competitive. It is competitive right to the very moment
12 the consumer puts food in his mouth.

13 If my pigs score higher on a premium scale
14 than my neighbor's pigs, I expect to get paid for that
15 premium. If I get up at 2:00 a.m. to deliver those hogs
16 to the packer, I expect to get paid for that service. If
17 a snowstorm is coming, I expect my processor to have the
18 right to pay me more that given day or that given moment
19 for pigs than he made the next day without justifying it
20 with a written cost analysis to GIPSA. The new rules will
21 make it difficult if not impossible to negotiate these
22 types of premiums.

23 Another rule that is problematic to the
24 industry is that the contract must be long enough to allow
25 me, as a producer, to get back 80 percent of my initial

1 investment or investment that I have to make along the
2 way. That may be fine and dandy for some producers, but
3 not in every case. And on that particular rule, I think
4 the producers should have the option to opt out of that.
5 He may have other plans before that cost recovery is
6 achieved and/or other opportunities. So the producer
7 would need the opportunity to at least opt out of that
8 particular clause.

9 As I look at this rule from the other side as
10 a pig owner, I'm going to say that if I have to guarantee
11 a producer 80 percent of his initial investment back, I
12 will just go to the building myself. This rule alone will
13 further vertically integrate the industry and eliminate a
14 lot of producers around the country. Combining this with
15 all paperwork, administration, and work with the legal
16 liabilities that these vague rules imply, I am afraid you
17 will achieve a far greater rate of vertical integration
18 than we have at this point in time. Thank you.

19 MR. BULLOCK: Thank you. I am Bill Bullock
20 representing R-CALF USA. And by design, U.S. cattle
21 producers are currently caught in a classic Catch-22
22 situation. Cattle producers are leaving the cash market
23 at an alarming rate. They're doing this because the cash
24 market has persistently produced prices too low to cover
25 their costs of production.

1 These producers have exited the cash market to
2 seek out alternatives. Many have entered alternative
3 marketing arrangements and formula contracts. This
4 remains the only game in town in order to beat this
5 dysfunctional cash market that was persistently producing
6 low prices. And now the U.S. cattle industry is midway in
7 the highly successful and anticompetitive strategy of the
8 meat packers that they are deploying in this industry to
9 capture control over the live cattle supply chain just as
10 they've already captured control over the hog industry and
11 the poultry industry. And they're doing this in a very
12 straightforward manner.

13 Their strategy includes four steps. Number
14 one, they create an entirely new economic risk in this
15 industry, and that risk is market-access risk. The
16 markets, by virtue -- or the packers, by virtue of their
17 market control, a handful of them are controlling who does
18 and who does not have timely access to the marketplace
19 when these perishable animals are ready for slaughter.

20 Second step. They then solve the problem of
21 market-access risk. They do this by offering to guarantee
22 access if the producer is willing to sign a contract. As
23 a result, more and more producers leave the cash market.
24 It becomes, then, highly susceptible to manipulation. As
25 the price lowers, the aggregate price of all cattle

1 lowers, including the cash price, all the alternative
2 marketing agreement prices. All of those that are lowered
3 as a result of the dependence for the cash markets
4 continue to be the price-discovery market.

5 What we need to do now is for USDA and the
6 Department of Justice to take aggressive steps to stop the
7 monopolization of our U.S. cattle industry. They must
8 take the first step and that is to prevent the packers
9 from creating this market-access risk. And then what they
10 have to do is they have to ensure the integrity and the
11 functionality of the cash market. We believe the USDA
12 proposed rule does just that. It addresses the four major
13 affronts to competition, and we support it fully. And I'm
14 out of time. Thank you.

15 MR. SMITH: Thank you. My name is Mark Smith
16 and I'm president of the Kansas Livestock Association.
17 Our organization was formed in 1894 and represents all
18 cattle industry segments from seed stock, cow-calf, cattle
19 feeders, land managers, and diversified farming
20 cooperations.

21 The Kansas livestock industry in the state of
22 Kansas is very important to our producers and also the
23 state. We have 70,000 meat production workers in the
24 state of Kansas. The Kansas livestock industry supports
25 over \$10 billion of economic impact to our state. So this

1 issue, this topic of this workshop, is also very
2 incredibly important to our state, not only to the
3 producers of the state of Kansas and the members of the
4 Kansas Livestock Association.

5 We have a lot of concerns with this -- with
6 these rules. We are asking that GIPSA and the USDA do a
7 serious economic analysis of all that can happen with
8 these rules. We believe that there's a lot of vague
9 answers, a lot of vague rules that can have serious
10 impacts to the livelihood of the farmers and ranchers on
11 this land. Our initial analysis shows that it's going to
12 have negative impacts. So as this regulation is in its
13 current form, we oppose this regulation. We believe that
14 it's going to lead to further negative impacts in our
15 industry.

16 I'm a small farmer, small cattleman. I
17 produce cattle for U.S. Premium Beef. I'm a member of
18 U.S. Premium Beef. I also sell in the cash market. I
19 also sell and formulate in markets on feeding cattle and
20 other feedyards. I believe these rules and regulations
21 being vague are going to have a detriment to my way of
22 living off the land out in Western Kansas. We want you to
23 have serious consideration and serious thought and serious
24 analysis before any of this regulation is adopted. We
25 want to keep this dialogue box open and want to be sure

1 that when you analyze every fix, it's a solution to a real
2 problem before any regulation is finalized. Thank you.

3 MR. HENNING (phonetic): My name is Tim
4 Henning. I'm from Ranier, Minnesota. I am a fourth- and
5 final-generation farmer from southwest Minnesota.

6 In the mid-1990s, a neighbor and I bought all
7 the cattle off a ranch in Montana. He took the heavy end;
8 I took a light end. They were basically fed the same
9 ration, same genetics. When it became ready about the
10 same time, a major packer came out, looked at my cattle,
11 gave me a bid, drove over to my neighbor's and gave them a
12 bid. I called John. I said, What did you get for yours?
13 He informed me that his bid was \$2 higher than mine. When
14 I called the packer/buyer and questioned him, his comment
15 was, What do you got; a damned hotline between the two
16 places?

17 After pressuring him, he openly admitted that
18 the reason that John got more than I did is because he --
19 he'll sell them 20 loads of cattle in the next year and
20 I'll only sell him two. So I joined a marketing group --
21 oh, let me back up a minute. That was the last time that
22 that packer and I were able to do business. Not by my
23 choice; by his. My cattle were either not what he was
24 looking for or they were -- the bid was ridiculously low
25 or he just was out of the market.

1 So I joined a marketing group. We formed a
2 niche market on the East Coast with a packing plant there,
3 took the choice roasts and the steaks out and went to
4 high-end restaurants. The balance went into hamburger.
5 That was bought out by another packer. That niche market
6 died. Last week, my marketing group was indirectly
7 informed through innuendos and other means that if we
8 showed up at this meeting, they may or may not be able to
9 buy our cattle in the future.

10 My question to you is: If these GIPSA rules
11 are not enforced, if the Packers & Stockyards Act is not
12 enforced, where will I be able to sell my cattle? Who
13 will stand up for me if you don't? Thank you.

14 MR. BACH (phonetic): My name Darren
15 (phonetic) Bach. I'm a hog farmer from Boyd, Minnesota.

16 I did have a prepared statement, but I'm not
17 going to use it. The reason being Secretary Vilsack, in
18 his opening statement, did such a good job of hitting on
19 all the points I wanted to make, I don't think I could add
20 much to them. The one thing that he did seem to be very
21 interested in, both in his opening statement and some
22 follow-up questions, was about the open market,
23 particularly in hogs. He pointed out that recently, we
24 went below 4 percent on the purchases that were made on
25 the open market. And what can we do on the spot -- do to

1 protect and legitimize that spot market?

2 If you look on the USDA's data, it shows that
3 packers buy more hogs from other packers than they do from
4 producers on the spot market. There's two problems with
5 that, these packer-to-packer sales. One, they're avoiding
6 coming into the market and bidding for the hogs that they
7 need, which holds on the price. And as Secretary Vilsack
8 pointed out, most of the other hogs are sold on some type
9 of a formula based on that open market price.

10 The second thing it does is it sends price
11 signals to the pack -- to each other on what they're
12 paying for their hogs. He came out -- in the question
13 session, he asked what can be done to try and help the
14 open market to make it a viable, open and competitive
15 market. My answer is ban these packer-to-packer sales and
16 implement the GIPSA rule.

17 Now, I hear a lot of complaints from the
18 packer-producer groups about the vagueness in the rules.
19 My question is: What are the rules now if not extremely
20 vague or nonexistent? I mean, they're there but just
21 not -- they're so vague that that's been what the problem
22 is. And that was the directive of Congress, to clarify
23 these rules. If they need some further small
24 clarifications, do it. But implement the rule. Because
25 if you do not, independent hog producers will be gone

1 before this term is up of Secretary Vilsack and the rest
2 of the administration. Thank you.

3 MS. WILLIAMSON: My name is Dawn Williamson.
4 I'm a pork producer from North Carolina. My family and I
5 run 3,000 sows. We run those sows on two separate farms.
6 We sell pigs on contract with two different integrators
7 under terms that are fair and equitable to everybody.

8 I want you to understand, gentlemen, that I
9 take a lot of pride in my ability as a herdsman. I also
10 take a lot of pride in my ability as a business person. I
11 take very, very strong exception to the notion that a
12 government agency feels like they have the need to come in
13 and check and approve of my private business contract. As
14 an aside to that, I particularly don't want my business
15 published on the USDA Web site. That's a matter of my
16 private business and not for the world to see.

17 The proposed GIPSA rule as its written is
18 vague and it overreaches its intent. It's potentially
19 harmful to my industry, to my farm, and to my family's
20 financial future. And I would ask that USDA withdraw it,
21 go back to the table, and try again.

22 MR. FOX: Hello. My name is Kenny Fox. I'm
23 the president of the South Dakota Stockyards Association.
24 And we represent cattle ranchers and a few independent
25 feeders.

1 We support this rule. We think it's
2 necessary. We also feel that this ban on packer ownership
3 should be there as a -- what happened to us in 2005 when
4 the Canadian border was closed and cut off the captive
5 supply of the packer, our market jumped several dollars
6 higher practically overnight. We sold the highest priced
7 cattle we ever sold in 2005. And the price of meat was --
8 choice retail meat was \$4.09 a pound. Today, retail
9 meat -- choice meat is \$4.49 and we're \$100 to \$150 less
10 on the price that we're receiving for our cattle. We
11 need -- we need this protection. We need to keep our
12 people on the land. And it's all about a market. If we
13 don't have a market, nothing else matters. Thank you and
14 we appreciate your work.

15 MR. HERZEG (phonetic): My name is Don Herzeg,
16 independent producer from very rural Montana. And the way
17 this rule is written is vague, and I don't think there's
18 any argument about that. There's a lot of agreement here
19 today that it is vague. And we've had people analyzing
20 this ourselves and even an attorney. What does it mean?
21 We have not gotten a definite answer because no one is
22 sure. And so we don't know what it means to our future.

23 In Montana, the bulk of the pork production is
24 in the Hutterite Bretheren colonies. I don't know how
25 many of you are familiar with that. These people are as

1 down to earth as you could get and very family oriented.
2 We have no major packers in Montana and we have to ship
3 several hundred miles to the nearest packer. And so
4 contractual arrangements are essential -- absolutely
5 essential for the transportation and marketing of our hogs
6 out of Montana.

7 In our family, we -- we're cow-calf and we're
8 hogs and we're grain. We've worked literally for
9 generations to develop good genetics in our livestock.
10 And I'm not about to apologize for getting a premium for
11 something that's superior to someone else's product. And
12 I resent the implication that I should have to do that to
13 justify that. That's obvious.

14 One of the things that was talked about at
15 length here today is the age of farmers and how our -- the
16 aging population is an issue that everyone's concerned
17 about in the farming ag community. You've got to address
18 the inheritance issue if you expect the next generation to
19 be there. I don't -- I don't think it's fair for you to
20 take half of what several generations have worked for in
21 our family in the form of inheritance tax and give it to
22 someone who won't work. Thank you.

23 MR. DAY: Gentlemen, I'm Louis (phonetic) Day
24 from Valentine, Nebraska. And I'd like to have you folks
25 up there, up front, look out here because -- and I would

1 like to thank all you people that have made the effort --
2 and you've got to realize most of these people are here on
3 their own dime. Some of them traveled several days. Some
4 of them worked all day yesterday, drove all night, and are
5 here to make a difference for their future and their
6 children's future, and this country's future. Thank you
7 all for making that effort. I think that will bear fruit.

8 Mr. Butler, they sent you out several times
9 and I've heard you talk. And I guess one reason why I'm
10 here is because I was a little skeptical. You said that
11 you wanted to do your job. And I guess you've come under
12 a lot of fire for trying to do that. And I want you to
13 look here because a lot of these people are here because
14 that's all we want. We want someone that will do their
15 job. And you people that are higher up in the USDA and
16 these other departments, you've given us some kind of nice
17 political talks today. But there's several things that
18 you can do to prove that you are working for us.

19 And one of them is, is we work very hard to
20 pass country-of-origin labeling. Every one of us here can
21 tell where our underwear is made. But you guys messed up
22 the rules to where our consumers still have a struggle to
23 find out where our beef is coming from. The other thing
24 is, is something you could do right away to prove that you
25 are here working for us is many of us have taken money

1 away from our operations and our family trying to force
2 you to do your job in protecting our herds and our
3 livelihoods from foreign diseases.

4 With that in mind, what I would like to bring
5 up is we will take care of our own families if we have a
6 fair playing field, and the cash-negotiated fed cattle is
7 a key to that. And if you don't believe me, you just go
8 buy a pen of cattle, feed them out, and try to deal with
9 that handful of packers and let them know who you are.
10 And, gentlemen, you will get an education of why we're all
11 here.

12 I want to highlight the seriousness and the
13 amount of money that's at stake here and why we're all
14 here and why we are having trouble feeding our families.
15 Do you realize that in Nebraska alone, for every \$0.50,
16 that this market can be controlled? In 2007, Nebraska
17 alone fed out 5,130,000 head. If they average 1,250
18 pounds, that's \$6.25 a head. But every \$0.50 is 32
19 million. That's real stimulus.

20 The other thing is we had -- in 2003, the good
21 Lord's given us some hints of the opportunity that's there
22 because of BSE being found in the Canadian cattle herd.
23 The good Lord showed us the opportunity. I'll go further
24 on what Kenny said. It's documented proof. I've got
25 records at home from the extension agent in Nebraska. In

1 five months from the time they lost 5 percent of the
2 cattle used to control our cash-negotiated cattle,
3 Nebraska increased \$25 to \$100. Thank you.

4 MR. ACEY (phonetic): Hello. I'm Gary Acey, a
5 pork producer from Illinois. I have been around hogs all
6 my life. In the past, I've produced hogs and I've had
7 contract growers who fed the hogs for me. In 2008, I made
8 a decision and I sold my last hog. And I built a new wing
9 to a finished building and began feeding for another
10 producer.

11 Because of my past and present experience, I
12 understand both sides of contracting and feeding. There
13 are many factors that go into consideration to determine
14 the feed that goes to the contractor, such as the type of
15 building. For example, a weed-finish building, a
16 feeder-finished building, large pen, small pen, tunnel
17 ventilation or natural, the age and location of the
18 building. Also, the skills of the person operating the
19 buildings, such as skills for caring for small sick
20 animals and sorting, and skills in setting the
21 light-weight animal and even-weight animals to market.
22 Another consideration is the market contract -- market for
23 contract spaces at the time the contract was signed.

24 With the proposed changes to the Packers &
25 Stockyards Act that require written records for a

1 difference in pay to contract feeders, if all these things
2 have to be verified, it would create a great deal of
3 paperwork that must be kept; most likely, individual
4 records for each professional contract. The way in which
5 the new ruling is written is very general and the owners
6 of the hogs do not know how the rules will be enforced.
7 And with this fear -- this, I fear the prices for many
8 contractors' spaces may go down while a few may go up.
9 Thank you.

10 MR. KAZAR (phonetic): My name is Bo
11 (phonetic) Kazar. I manage a feedyard in the Texas
12 Panhandle. I'm also a shareholder in that feedyard. Our
13 group owns a major interest in a small cow-kill plant at
14 Booker, Texas, Preferred Beef Group. Preferred kills
15 160,000 to 180,000 cows a year.

16 As I interpret the rule -- or as I understand
17 the rule, at the point that I become defined as a packer
18 because of that ownership, I'll have to send 80,000 cattle
19 to our packing house, displacing 80,000 cows. And that's
20 going to detrimentally impact their operating year. Small
21 and large producers are going to be damaged and hurt
22 because of that. I maintain and have secured
23 certifications for verified natural NHTC source-and-age
24 verified cattle. I sell cattle to five packers. I'm not
25 limited in what I can do. I negotiate most of those

1 processes. I do -- I do sell some top-of-the-wheat
2 cattle. But I have a choice and I choose to do that. And
3 I feel like it's good for my business; good for me
4 personally.

5 The -- what I see going on here is
6 government -- the government's attempt to interject
7 themselves in the free markets by telling me when and how
8 I can merchandise my cattle. They mentioned several times
9 the broad general scope of the rule is going to open the
10 door to lawsuits. It's an opportunity for trial lawyers.
11 It's going to really interfere with our business. I see
12 it a lot.

13 I have just a few more points. The --

14 MR. STALLINGS: If you can go quickly, sir.

15 MR. KAZAR: We can -- it goes beyond the
16 scope -- the directive of the 2008 Farm Bill. It goes
17 against court rulings that have already been documented.
18 When we can -- when we can freely sue because we feel like
19 we've been mistreated, it's going to -- the price
20 differentiation based on value is going to go away. We're
21 going back 30 years.

22 And if you look at -- if you look at a chart
23 30 years ago, we're in a declining demand for our cattle.

24 MR. STALLINGS: If you could finish up.

25 MR. KAZAR: On behalf of my company, my

1 customers, our consumers, both of the United States and
2 abroad, I urge you not to pass this.

3 MR. FERRELL: Please try to stick to two
4 minutes.

5 In order to stay on schedule today, we --
6 we're going to run for about another ten minutes. If you
7 are in line, what I want you to do is, when we pick up
8 again in the next public testimony part of today, go ahead
9 and get in line and pick up right where you left off. And
10 so we're going to go another ten minutes so we can start
11 with the other panels. But we're going to continue to
12 work through as many folks as we can. And again, I
13 encourage you to please stick to your two minutes.

14 MR. KENNING (phonetic): Thank you. My name
15 is Jerry Kenning. I'm from Imperial, Nebraska. My father
16 started an operation that my grandfather began. The thing
17 that hasn't been mentioned here is change. I no longer
18 ride in the boxcar to Chicago with fat cattle. My father
19 hauled cattle to Denver, Colorado, to try to get a higher
20 dollar. I today do not use the cash market. I bid my
21 basis, I bid my grade-yield premium, and I bid my
22 source-and-age premium. And then I have from the time I
23 purchase the cattle -- or, in actuality, I have an
24 opportunity before I even purchase the cattle to sell them
25 with price discovery that opens at 8:20 in the morning and

1 closes at 12:30.

2 We -- I have had to change. My son is home
3 today. I expect him to make some changes. This is not
4 the same industry that we had 50 to 100 years ago. The
5 thing I would ask you -- my point is: Please do not raise
6 our cost of production in regulatory management. I'm
7 going to use the EPA as an example. Their regulatory
8 things that we had to comply with raised our cost of
9 production. Beef today is the highest-cost protein that's
10 out there for much higher costs than other foreign
11 countries. Please, when you read this, realize it's vague
12 and leave us alone. The tools are out there today for us
13 to manage in the way things work. Thank you for this
14 opportunity.

15 MR. ENGLER (phonetic): Thank you. My name is
16 Paul Engler, and I am a founder and chairman of Cactus
17 Feeder, which we have a one-time capacity of slightly over
18 500,000 cattle. We turn that inventory in excess of two
19 times a year, so we market over 1 million head of cattle.

20 Folks, I celebrated my 81st birthday this
21 week. Thank you. I'm still going at it strong. I'm
22 very, very obsessive about not only the industry today but
23 the future of the industry. I started -- a borrowed money
24 and bought my first cattle when I was 12 years old. If
25 you subtract 12 from 81, see if you come up with 69 years

1 of experience in the business. I've been in every sector
2 of the business from cow-calf all the way through cattle
3 feed, even meat packing. I also have experience in
4 foreign countries in -- both in ranching and in cattle
5 feeding and meat packing. So I think I would qualify as
6 an experienced speaker.

7 Now, when I studied this rule, I read it and
8 reread it and reread it. And I couldn't believe where --
9 what I was reading insofar as what I thought the impact
10 that that rule is implementing in our industry today, what
11 harm would result. So I got to thinking a little bit
12 about it. I'm going to run a little scenario by you.
13 And, look, it's fiction right at this point.

14 But if there was a terrorist organization that
15 wanted to do irreparable harm to our industry --
16 irreparable harm -- instead of going out and dropping a
17 virus, say, for instance, in a feedyard -- FMD and so on
18 and so forth -- they're going to attack the industry from
19 an economic standpoint. And if you could look at a
20 scenario where the USDA -- and more specifically, GIPSA's
21 offices -- where infiltrated by these terrorists, and what
22 kind of a plan that they would come up with to do that
23 irreparable harm to the industry.

24 Okay, okay. Obviously, I'm not -- all they'd
25 have to do -- in all that territory, all they'd have to do

1 is follow through with the plans that this rule is calling
2 for. So, folks, be very, very careful. Don't ask for a
3 little bit more than what you might expect you're going to
4 get. If you go back in history --

5 MR. STALLINGS: Mr. Engler, if you could
6 finish up.

7 MR. ENGLER: Okay. I suffered through --
8 thank you very much. I've suffered through the price
9 freeze of 1972, suffered through --

10 MR. STALLINGS: We have a lot of people in
11 line that --

12 MR. ENGLER: Okay. Well, thank you very much.
13 I thought perhaps my age might make me get a little
14 difference on the deal. Okay.

15 Folks -- folks, I've been in tougher places
16 than this. I can assure you that. Okay. Thank you.

17 MR. SMITH: I wrote Dudley Butler a letter.

18 My name is Johnny Smith, and I'm in the cattle
19 business through an auction market and ranch. For 15
20 years, I've led the fight to get the big major
21 corporations to obey the Packers & Stockyards Act. All we
22 want is fair treatment.

23 In 1980, a thing called deregulation came into
24 effect. The effect, we were told, was to take the
25 government out of agriculture. What it did was turn a

1 bunch of greedy monster corporations loose on unsuspecting
2 producers, both in the packing industry and the grain
3 industry. In the fat-cattle industry, they have four
4 packers that control 90 percent of the fat-cow industry.
5 Number one is Tyson with 11 packing plants, killing 35,000
6 head a day. Cargill has eight packing plants, killing
7 28,000 head a day. JBS has eight packing plants, and they
8 kill 25,000 head a day. National Beef has three packing
9 plants and kills 13,000.

10 Why should our industry be controlled by,
11 essentially, four entities? This has taken all of the
12 competition out of our industry. Why should one entity be
13 allowed to control more than two packing plants? This
14 destroys all competition because four entities know how to
15 cooperate with each other in a shared monopoly. What this
16 has done in the past 30 years has almost destroyed our
17 cattle industry. The only competition we have in the
18 cattle industry anymore is individual feedlots and
19 individual cattlemen feeding livestock. This is not the
20 way in the fat-cattle industry. There's no competition.

21 The same goes for elevators and grain
22 companies. The huge grain companies are continually
23 ripping off farmers. For example, in the winter-wheat
24 industry, there's huge deductions on protein if it's under
25 12 percent. This year, our crops were very good. But the

1 protein is low, so the elevators take advantage of that
2 and beat the price back tremendously. Yet can you tell me
3 anywhere on a box of cereal that it says "low-protein
4 grain"?

5 Over the years, we have continually tried to
6 make the packers and grain companies adhere to the Packers
7 & Stockyards Act. In 1980, deregulation came in and the
8 P&S Act was thrown into the garbage. Since 1921, it was
9 the law of the land. It's very similar. The P&S Act is
10 made up of right is right and wrong is wrong. Yet in the
11 last 30 years, USDA and the attorney general -- neither
12 one has done a damned thing to try to control the
13 monopolies in the agriculture industry.

14 Isn't it about time that Americans stood up
15 for America? Our whole country has turned into a
16 corporate wreck. When Dubai tried to buy our sea ports,
17 there was a loud outcry to keep them owned by the U.S.
18 Then we found out that they were owned by the British
19 already. Our cement plants are owned by Mexican
20 companies.

21 MR. STALLINGS: Mr. Smith, we're trying to be
22 fair here.

23 MR. SMITH: The Vietnamese own our railroads.

24 Just one second, my friend.

25 The Chinese outsource most of our industry.

1 And most recently, a Brazilian company, JBS, was wanting a
2 captive supply, over 1 million head of feeder cattle. Why
3 should these foreign countries be allowed to control our
4 industries that are so important to our nation's
5 livelihood? These rules are going to help our industry,
6 so we ask you to be past the rules. Thank you.

7 MR. STALLINGS: Thank you.

8 MS. VALDEZ: Good afternoon. My name is Olive
9 Valdez, and I'm from a small community; Antonito,
10 Colorado. We're 5 miles from the New Mexico state line.
11 My husband and I were cattle producers. We were
12 missionaries and, in a sense, because we were going to
13 produce the best product anyone had ever seen. Therefore,
14 after 32 years of selectively breeding, artificial
15 insemination, and everything you could think of, we came
16 up with a fat-free beef product. Fat-free. We had the
17 independent analysis to prove it.

18 Okay. So we had a loan with Farm Service
19 Agency. We went into the agency, We need to continue our
20 loan. And they said, Well, we're not going to be able to
21 carry that loan any longer for you; you're going to have
22 to go to the bank and get a guaranteed loan. Well, so we
23 had the 4 percent loan. We figured it couldn't be too
24 bad. We went to the bank and they told us, Well, we'll
25 give you a guaranteed loan, but it's going to cost you 14

1 percent. Well, you know, that was when the parity for
2 agricultural products was at 39 percent. So this is the
3 reason for my message today.

4 We're involved in a lawsuit, Garcia versus
5 Vilsack. 67 percent of Hispanic voters supported
6 President Obama. We were proud to do so. Now, as a
7 result of years of discrimination, we're defendants in a
8 lawsuit against USDA. We have been offered a settlement
9 that is a tribalization of our damages. This proposed
10 settlement is one-half of that awarded to the black
11 farmers.

12 Our suffering is real, and it's devastating.
13 We've lost homes and family lands due to USDA
14 discrimination. Injustice is injustice no matter where or
15 when it occurs. Please remember us. We stick up for you
16 when you needed us. Please stick up for us. Correct this
17 injustice. Thank you.

18 MR. FERRELL: I think we'll do two more. And
19 then what we'll do is we'll pick up is -- when we pick up
20 again for the next public testimony part of today, just go
21 ahead and just come right back where you were. We want
22 to -- we want to hear from you that were already in line,
23 but also want to hear from as many people as we possibly
24 can. So we're going to do two more. And then, to keep on
25 schedule, we're going to run through our -- do our two

1 more panels and then go right back into listening to your
2 comments.

3 So we'll pick it up over here.

4 MR. SHERINE (phonetic): Hello. I'm James
5 Sherine from Southwestern Minnesota. I'm a livestock
6 producer -- pork producer from Southwest Minnesota.

7 For 25 years, I've worked on changing my
8 operation to improve with the industry. And it's taken a
9 lot of work. It's taken a lot of money. And one of the
10 ways that I've done that is, is as I've grown in
11 livestock, I've found people that will build barns for me.
12 And it keeps them in business, as well as myself. They
13 share the barn risk; I share the livestock risk. As I
14 went through time, we decided we needed a better marketing
15 plan. So we went to a group of people from midwestern
16 United States and we went to work and we built a plant
17 called Triam (phonetic) Foods.

18 Today, I have part of my pigs that go to Triam
19 Foods; part of them that go to three other packers in the
20 upper Midwest. What I find out today is, guess what? I'm
21 the dirty packer. According to the GIPSA rules that are
22 written, I'm the packer that has to turn around and say,
23 You know what, just because I don't have money enough to
24 buy all my shares and put all my pigs in Triam Foods
25 today, I either got to sell out of Triam Foods or reduce

1 my pork production.

2 And the other problem that I have with the
3 GIPSA rules, if my livestock people that -- the young
4 farmer that builds the barn does improvements to that
5 barn, now I must guarantee that I'm going to pay 80
6 percent of that back to him in some form or fashion, the
7 way I read the GIPSA. Well, guess what, guys? My banker
8 won't allow that to happen. He's going to turn around and
9 say, Dave, either you -- either you build your own barns
10 and take that risk, because then you have equity risk as
11 you pay for them, or get out of the business; you haven't
12 got the money to follow through.

13 So please, guys, as you look at these GIPSA
14 rules, keep pork out of it. It's working well the way it
15 is. I've changed and done everything I could, so leave us
16 alone in pork production. Thank you.

17 MR. GREEN: I'm Joel Green, a dairy farmer
18 from Kendall, Wisconsin. And as a dairy farmer, we're
19 major contributors to the cattle industry. And when milk
20 prices are low, you try to supplement income by selling
21 cold cows and calves and heifers. And in doing so, you
22 know, we're major contributors to the beef check-off
23 where, in the case of a dairy animal, they could collect,
24 you know, three, four, five, even up to six times off a
25 single animal when it's sold on the market.

1 Secretary Vilsack was in West Salem,
2 Wisconsin, July of '09. He commented that most of the
3 world or much of the world pays anywhere from 25 percent
4 to 50 percent of their income for food. But here in the
5 U.S., it's closer to 10 percent and that we prefer to keep
6 it that way. At whose expense? Farmers? Ranchers?
7 Consumers can no longer afford this. The time has come
8 for USDA and DOJ to decide whose side they're on. Will
9 you continue to allow corporate America to run rough-shot
10 over everyone or will you come out on the side of farmers,
11 ranchers, and consumers and at least allow us cost of
12 production, plus reasonable profit? I can't help but feel
13 that farmers and ranchers are used as pawns in fixing the
14 economy. This will fail. Rural America will be dead.

15 In 1962, the committee for economic
16 development released an adaptive plan for agriculture.
17 Kenneth B. Bolding, an economist, Department of Economics,
18 University of Michigan, member of the Research Advisory
19 Board, stated the following: The only way I know how to
20 get toothpaste out of the tube is to squeeze. Likewise,
21 the only way to get people out of agriculture is to
22 squeeze. If the toothpaste is thin, you don't squeeze
23 very hard. On the other hand, if the toothpaste is thick,
24 you have to put real pressure on it.

25 If you can't get people out of agriculture

1 easily, they're going to have to do farmers a severe
2 injustice in order to solve the problem of allocation.
3 This has got to stop. You have to stop squeezing. You've
4 got to wonder how much of this is by design --

5 MR. STALLINGS: Sir, if you could finish up.

6 MR. GREEN: Absolutely.

7 -- and how much is just mere circumstance.
8 But implement the GIPSA rules and enforce Packers &
9 Stockyards. Thank you.

10 MR. FERRELL: We will now go ahead and start
11 our next panel if our panelists for the next panel can
12 come ahead up here and get started.

13 (A recess was taken from 1:45 p.m. until
14 1:47 p.m.)

15 MR. WEISER: All right. We want to have two
16 panels now that will put into perspective some of
17 discussions we've had up until now. With all these
18 hearings, as folks have articulated it, is to get our arms
19 around the dynamics in a comprehensive thorough-going
20 manner. To do that, we put together a panel of diverse
21 and extremely accomplished individuals across different
22 market segments and valuable expertise.

23 Sitting next to me here, Libby Cook. Libby is
24 the founder of two supermarket retail chains: Wild Oats,
25 found here in Colorado, and Sunflower, also found here in

1 Colorado. It's great that you came here to join us to
2 share your perspectives.

3 Next to her, going this way, is Jerry Born --
4 or Jerry Bohn, who is a -- owns a feedlot -- is that
5 right -- and comes to us to share his perspective. We
6 appreciate that.

7 And, please, if I mispronounce your name --
8 Gilles? Is that right?

9 MR. STOCKTON: Not quite.

10 MR. WEISER: Not quite.

11 MR. STOCKTON: Good try.

12 MR. WEISER: Come on.

13 MR. STOCKTON: Gilles.

14 MR. WEISER: Gilles.

15 MR. STOCKTON: It's French.

16 MR. WEISER: Gilles Stockton operates a family
17 cattle and sheep ranch. He comes to us from Montana.
18 Like some other people, he is pursuing his craft with the
19 benefit of an advanced degree -- in this case, a master's
20 degree in animal science from Montana State University --
21 and has been a leader in the Western Organization of
22 Research Council, among other efforts.

23 And at the end there -- I'm trying to see
24 here, is that Clem? Clem Ward -- for those of you who
25 don't know, Clem is one of the leaders in agricultural

1 economics. He is at Oklahoma State University. I
2 think -- are you an emeritus now or --

3 MR. WARD: (Nodded.)

4 MR. WEISER: It seems like he was there for a
5 long career -- 31 years -- focusing on the broad changes
6 in the industry. We're so glad to have you here with here
7 today.

8 Sitting on my right here, Mark Lauritsen? Is
9 that right?

10 MR. LAURITSEN: (Nodded.)

11 MR. WEISER: Mark Lauritsen represents a
12 number of the folks here in yellow shirts, as you can see;
13 those who work in sort of the other side of the business
14 helping to pack the beef. There's a lot of workers
15 employed in that. He has a valuable perspective to offer
16 in terms of the commercial workers.

17 Mark Greenwood, another perspective, from
18 AgStar Financial Services; lending to ranchers. We
19 appreciate you joining us, Mark. Mark comes to us from
20 Montana; is that right?

21 MR. GREENWOOD: Mankato.

22 MR. WEISER: What's that?

23 MR. GREENWOOD: Mankato.

24 MR. WEISER: Mankato. All right. Great.

25 And Armando Valdez is another producer who

1 joins us on this panel. He is also from Colorado doing a
2 family farm with cows and calf. We appreciate you coming
3 to us. I should say for those here, Armando is a graduate
4 of Colorado State University.

5 MR. VALDEZ: You've got to play the crowd,
6 right?

7 MR. WEISER: That's right. Absolutely. We
8 appreciate you joining us.

9 Bill Heffernan is, like Clem, one of the
10 giants in the academy. He got a Ph.D. in rural sociology
11 and has been, for quite some time, at the University of
12 Missouri. It's great to have you here with us, Bill.
13 Thank you for joining us.

14 So as I said, I want to start off with the
15 broadest picture. There is, as has been discussed,
16 increasing concentration in cattle and hog industries. I
17 guess from the two academics who bookend us, let me ask
18 you for your perspectives.

19 Clem, how would you describe the situation as
20 it evolves?

21 MR. WARD: First of all, I think we all know
22 that what's happened in the packing industry and retailing
23 industry is not unique to our economy. It's pretty much
24 happened throughout most of a lot of manufacturing
25 industries and other sectors of the economy.

1 Concentration's increase has come about and -- typically
2 comes about from two sources. One's internal growth of
3 the firms themselves and the other is through mergers and
4 consolidation. And we've seen a lot of both of those
5 things in the pork-, beef-packing industries and in the
6 retail industry.

7 I'm more familiar with the packing industry,
8 so I'll pretty much concentrate on that. But back in the
9 '70s, core firm concentration of the four largest firms
10 had about 25, 27 percent of the market share. And in the
11 hog industry, it was about 32, 33 percent. Then through
12 the '80s, we had some very, very sharp market structure
13 changes. We had a number of plants that were not
14 profitable who closed their doors. Some of those were
15 purchased by other packers. Some were closed for a time,
16 came back with different labor contracts. Some of them
17 were expanded. But the driving force at that time was to
18 try to become more efficient.

19 And so there has been a couple studies at that
20 time. There have been some since then, all of which
21 suggest there are significant economies of size in the
22 packing business. So the larger you are, the lower your
23 average costs are. And that was the driving force. Along
24 the way, we had some mergers and acquisitions that were in
25 conjunction with growing those plants and some that may

1 have just been because they thought there were some
2 multiplant economies that they wanted to achieve.

3 MR. WEISER: Clem, you said, on the packing
4 side, there's some economies of scale being bigger. How
5 about on the ranching side? Are there economies of scale
6 there too or do they have a smaller --

7 MR. WARD: Some, but much less. Most of the
8 research has been fairly consistent that there are some
9 economies up to about 1,000-head cow herds and then may
10 tail off pretty sharply.

11 MR. WEISER: So one of the suggestions we've
12 heard -- and let me actually turn the suggestion to Bill
13 to analyze a little bit -- is that a greater level of
14 concentration at the packers and stockyards level has
15 actually tried to put pressure on ranchers to get bigger.
16 Is that true, do you think?

17 MR. HEFFERNAN: Well, we've heard several
18 times that they push -- that they push, essentially, for
19 the larger ranchers in terms of giving them preferential
20 treatment and such.

21 But I want to go back for just a moment, if I
22 might, to the concentration. I got involved in looking at
23 this concentration, and I borrow from the economists back
24 in the 1960s who were talking about the -- what percent of
25 the market share did the largest four firms have. And

1 they said -- their view at that point -- and these were
2 primarily institutional economists back in those days --
3 and that's people who, you know, will take a little bit of
4 sociology or psych or political science or whatever.
5 They're sort of the Renaissance people. But the -- they
6 said when four firms had more than 40 percent of the
7 market share, you begin to lose some of the benefits of
8 competition.

9 I sort of came along a little later -- along
10 in about the late '60s -- and I took sort of that and went
11 back to what's called small group studies, a sociological
12 theory that basically says that when you have four social
13 units left sort of in a competitive market -- and I'd like
14 you to think about board games that families play and so
15 on if -- because, in a sense, they did things like this in
16 terms of their experiences -- what they found was when you
17 had, like, nine, ten players, that was really pretty
18 competitive.

19 But as you move back toward about four firms,
20 what you found was they started acting in concert. They
21 would look at one another, what move they made, and then
22 they would adjust their behavior accordingly; therefore,
23 they see what -- look to see what somebody else did, if
24 they raised or lowered the price, whichever way it
25 happened to be, and then they would do the same. So in a

1 sense, what's happened is when we got down to that CR4,
2 once it started moving over 40 percent -- and most of
3 them are well worth 50, 60 percent, up around 75 percent
4 or more, as you heard -- when you have four firms
5 operating in concert, I call it a near monopoly. And so
6 that's one of the problems and why we've concentrated
7 early on on the CR4.

8 The second point I want to make, it's not just
9 the concentration of the four firms. That's what we call,
10 you know, basically the horizontal integration. It's the
11 food chain that is now the supply chain. The food supply
12 chain is lined up so that basically you have maybe three
13 or four dominant players starting all the way back with
14 the seed, or even the gene for that matter, and they
15 control either through ownership or through what we call
16 strategic alliance -- that's joint ventures, long-term
17 agreements and so on -- all the way from the seed down
18 through the supermarket. I don't have time to give you an
19 example, but that's another way.

20 And in a sense, you end up -- and I'm a member
21 of the board of directors of the Ozark Mountain Pork,
22 which started about eight, ten years ago trying to find a
23 market for our -- what we call "Farmers of a Middle" --
24 and we ran up to that problem. In a sense, you've got to
25 compete with the whole supply team. How do you break into

1 that? So all I'm saying is it's really hard to break into
2 the system.

3 The third thing I want to do is do a quick
4 flip on that and say, but those big firms we've been
5 talking about in the CR4, they're not immune to getting
6 pushed out either, or thrown out, as the case may be. And
7 I think we need to keep that in mind. In a sense, it's
8 sort of like they are running on a treadmill and they've
9 got to run faster and faster. And if they stumble
10 somewhere along the line, they're gone.

11 And since I'm in Colorado, I'll use the
12 Albertson's model that was -- they were a third-ranked
13 retail firm about five years ago. What happened to them?
14 Those of you in Colorado know or have been in Denver and
15 so on enough, looking at those old stores that didn't get
16 picked up right away. What happened was Safeway, which is
17 down in seventh place, teamed up with an investment firm
18 and basically it was a hostile takeover.

19 That was a firm that was operating fine and
20 dandy. You read the trade journal. They were doing a
21 good job. And they woke up one morning, and that
22 management team was history. Now, that really isn't a
23 very efficient way to run things. And what they did was
24 move Safeway up to third place. The other one skipped up
25 a little bit and life went on.

1 MR. WEISER: So people are going to have
2 questions, I suspect, as we go along. There should be
3 volunteers in green shirts. If you want to write your
4 question down and give to one of them and get it filtered
5 up here, I'll see if I can intersperse them in.

6 That gets us to the retail. And that,
7 obviously, is another piece of this equation. Mark, maybe
8 you can offer a few thoughts. How is retail and retail
9 concentration more specifically impacting on the whole
10 supply chain?

11 MR. LAURITSEN: Well, at first, I -- I think
12 we need to look at this -- I want to point something out
13 here this morning before I answer that question. Attorney
14 General Bullock described what's going on today as putting
15 packers and producers in the same room is like
16 establishing a firing squad in a circle. It kind of got a
17 chuckle out of the group. But then I got to thinking
18 about it, and I've just got to make this comment.

19 I have the honor and the pleasure of working
20 for a union that represents the hardworking men and women
21 that work in the slaughterhouses around this country:
22 beef, pork, chicken, and all food processing. And when
23 you guys establish that firing squad, we're the folks you
24 put smack dab in the middle of it.

25 Now, I say that and I say this to my friends

1 on the producer side, those 250,000 people that we
2 represent, they need you in the supply chain and they need
3 the producers to produce a good herd. My friends on the
4 packers side, those 250,000 people that we represent, we
5 need you. You supply the jobs. So in this firing squad,
6 you put us in the middle. And we've kind of created this
7 family fight, and we forgot to look at this whole system
8 as a food chain or supply chain.

9 And if we try to adjust these problems by
10 looking at them strictly from the packer back or from the
11 producer forward to the packer, we miss out on the most
12 important piece in that food supply chain. We're going to
13 treat a system, but we're not going to get to the disease.
14 And I'm talking about the retail side. There's been
15 consolidation in the food supply chain. It's going on
16 right now and it's going on rapidly in the retail sector.

17 Right now today, Wal-Mart controls 23 percent
18 of grocery. Now, you may not think 23 percent seems like
19 much. But think about what's been happening since the
20 early '90s when Wal-Mart's growth in the grocery store
21 sector has taken off and expanded. One in five retail
22 dollars in America is spent at a Wal-Mart store. Wal-Mart
23 controls 44 percent -- excuse me. Of 44 percent of the
24 markets, Wal-Mart controls over 30 percent of grocery
25 store dollars. Wal-Mart has more retail stores than the

1 next five closest competitors combined, and it does more
2 grocery store -- or grocery sales than its next three
3 biggest competitors.

4 So what has all this caused over the last
5 number of years when this concentration took place? Well,
6 since 1990, if you look at the consumer dollar spent on
7 beef, the retailer took \$0.33 of that retail dollar. The
8 rest of it was passed back to the supply chain. Today, in
9 beef, the retailer is \$0.49. That's a dramatic increase.
10 In 1990, in pork, the retailer kept \$0.45 of that consumer
11 dollar. Today, in pork, the retailer's keeping \$0.61.

12 Now, here's the thing. The people that I
13 represent, the cut that they get comes from what the
14 packer keeps. That's been constant. It's been around
15 anywhere, if it's beef or pork, from 8 to 14 percent. But
16 it's been pretty constant during all this time. There's a
17 way to address these needs. But again, I want to
18 challenge everybody to -- let's face the problems we have
19 and go at it from the total picture and looking at the
20 retailer. And here's really what we're talking about.

21 I've talked to people from R-CALF. And they
22 would tell us that if one penny was passed back down
23 through the supply chain from the retail side, that would
24 make a dramatic increase in the farmer and the rancher's
25 lives; one penny from the retailer. We've done our

1 studies at the UFCW. One penny takes the average packing
2 U.S. worker's wage from \$13.50 to \$16. Those kinds of
3 numbers affect our communities. They improve our
4 communities.

5 So what are we talking about? \$0.02. \$0.02
6 changes the lives of everybody in this room. My challenge
7 to you and what I would say to everybody is: Let's look
8 at where that \$0.02 lies. I think it lies upon the retail
9 and -- and it's the consolidation on the retail side that
10 I believe is forcing consolidation all throughout the
11 supply chain in the food industry.

12 MR. WEISER: So, Libby, you have first-hand
13 experience in the retail sector. I guess I'd ask you to
14 analyze those markets generally with what's been said and
15 also specifically to whether these are local markets,
16 national markets, or both. How would you explain to
17 people who were trying to understand the retail side how
18 things are evolving?

19 MS. COOK: Well, it's interesting because I
20 think, you know, not -- no industry is more competitive
21 than the supermarket industry where we're looking at 2 to
22 3 percent net profit margins. So this is -- this issue
23 with the small farmers and ranchers is -- reminds me of us
24 back in the early supermarket days with Wild Oats Markets
25 trying to compete with the large supermarket chains like

1 Safeway, Wal-Mart. And I think we did so effectively by
2 creating a niche market and educating our consumers on
3 local organics. And I think that's an important lesson
4 maybe for local farmers, small farmers and ranchers here
5 today.

6 I would take issue with the margins that Mark
7 was talking about. Typically, our margins in the meat and
8 in part of our business are some of the lowest; more like
9 20 percent with a maximum of probably a 35 percent margin.
10 And I think we are trying to not only promote, but really
11 help local vendors and manufacturers succeed. And we
12 highlight them and really try to focus on helping that
13 small farmer or rancher succeed.

14 And I know, for example, Whole Foods now,
15 after the acquisition of Wild Oats, works with, for
16 example, Panorama Beef, an organic and natural beef
17 supplier up in Wyoming that's main -- raises their cattle
18 on Indian lands. And so they just recently started
19 working with this producer about a year ago. So, you
20 know, I think we are, in the natural foods industry,
21 always looking to help promote the alternatives, smaller,
22 more high-quality rancher that's producing a high-quality
23 product.

24 MR. WEISER: So I want to go, if we can -- I
25 think, Armando, you would fit in this category, raising

1 high-quality product. Have you had success working with
2 retail outfits like Whole Foods? What's your experience
3 been?

4 MR. VALDEZ: My experience working with some
5 of these retailers, especially the organic natural
6 markets, if you're a smaller rancher or producer, it's
7 much more difficult. Unless you come with 200 head, they
8 don't even want to talk to you. So you try to look for
9 other options and other retailers; other retailers who
10 share your values, especially as a small rancher or in
11 producing that product and who want to work with you. But
12 if they don't share those values, it's about some of those
13 efficiencies, economies of scale. They want that product
14 in bulk, as many as they can get. And if you're not that
15 size, then there aren't that many options available.

16 We tried to market to Whole Foods in the past,
17 and they told us we just don't have the numbers. And I
18 don't consider myself a small, small producer. We have
19 300 head of cattle. And they still wanted more. So we've
20 looked at marketing to other co-ops to where -- in the
21 earlier panel this morning, looking at bringing different
22 ranching families together, we could finish our own cattle
23 and sell direct to the consumers. So that's another
24 option that's out there.

25 In our discussion today, though, we talk about

1 change, moving forward, what are we going to do for the
2 future. It's almost like we're going back in time. Think
3 about 1920, 1921 when the original Packers & Stockyards
4 Act was coming out. They were probably having
5 conversations dealing around some of these same issues
6 with the packer concentration. And there may be --
7 because ranchers and farmers are never able to retire,
8 there may be a few still around who remember what was
9 happening in those days and could actually give some
10 testimony from that.

11 But they were successful in creating more
12 competition, reducing some of that concentration in the
13 market. And look what happened. As one of the gentlemen
14 earlier in the testimony mentioned, in 1980 we started
15 seeing deregulation and here we came back with increased
16 concentration. I do agree with Dr. Ward, down at the end,
17 about the economies of scale and the efficiencies. There
18 are significant efficiencies, I think, when you do have
19 the consolidation, as well as vertical integration.

20 But efficiency is only one part of that
21 equation. What happens with your economic power and what
22 happens with economic freedom? We talked about some of
23 those freedoms this morning, as an individual producer,
24 being able to take my product, find competitive bids, make
25 profitable margins with my product. If we're focusing

1 just on efficiency, we're -- and consolidation is really
2 taking economic power and putting it in one place -- what
3 am I left with? I'm not left with much economic freedom.

4 MR. WEISER: So I want to go to Jerry and
5 introduce someone who we've not talked a lot about today,
6 which is the consumer and how the consumer fits into this
7 equation. Some have posited that the consumers have
8 focused on getting cheap food and that demand for cheap
9 food has kind of reverberated through the system. Is that
10 a suggestion you find therein or do you have other
11 translations of consumers are approaching their food?

12 MR. BOHN: I think that in our country -- you
13 know, I believe that our government has a cheap-food
14 policy. I think that they want to keep food cheap so that
15 the majority of the people -- the 97 percent who are not
16 in agriculture -- are able to produce food at a low price.
17 I think consumers, though, become more discriminating.
18 And there are opportunities in the markets today.

19 We found by our involvement with U.S. Premium
20 Beef that beef consumers are willing to pay a higher price
21 for a higher quality product and more consistent product.
22 And so the system that we're involved in and would be
23 similar to several other systems that are involved -- that
24 other producers are involved in focusing on producing a
25 higher quality product that's consistently good every time

1 they eat it. And to do that, we have to do some things
2 differently than we've done in the past.

3 And I want to speak briefly here for a minute.
4 We're all here today because we don't think we're getting
5 enough for our product. Nobody's talked about how we --
6 to build demand to sell more beef at a higher price.
7 We're all worried about packer concentration, their
8 cheapness. And we haven't heard a word about growing
9 demand and building demand. Why in the world would we not
10 do that? Let's get Japan open 100 percent. Let's get
11 China open 100 percent. Let's grow demand.

12 All of you will benefit if you sell more beef
13 at a higher price. That's what you're here for.
14 Government entities also tell people they shouldn't eat
15 beef. Look a food pyramid. Don't eat meat. It's at the
16 point of the pyramid. Help us sell beef. I think that's
17 what the government can do. Instead of telling us how to
18 sell our cattle and how to market them, let's sell beef.
19 Let's increase demand. The consumer is there. They want
20 our product, but we've got to provide it for them.

21 MR. WEISER: Gilles, what's your -- what's
22 your perspective on what consumers want and how to sort of
23 achieve the sort of premium opportunity that I think both
24 Libby and Jerry mentioned?

25 MR. STOCKTON: A growing demand, huh? Sell

1 more to Japan. Sell more to China. We can't raise enough
2 to feed the people in this country. The reason we
3 can't raise -- the reason we can't raise enough to feed
4 the people in this country is that the people who do the
5 hard work out in the land and the people who work in the
6 slaughter plants are not getting their fair share of that
7 consumer dollar.

8 I don't need JBS or Tyson to tell me how to
9 raise good cattle. I raise good cattle. I raise the best
10 cattle. I've retained ownership. They're fed in the top
11 10 percent, you know, in the nation. They're not -- and
12 there's nothing special about, you know, me. I'm not
13 smarter than my neighbors. They know how to raise cattle.
14 They know how to raise cattle better than I do. You know,
15 so we don't need a top-down corporate board of directors
16 telling us what to do.

17 I got concerned about this issue in 1987 when
18 a poultry producer came out to Montana and he talked to
19 us. And he told us what happened to him in the poultry
20 industry. And he begged us, he said, Don't become like
21 me; don't become a serf of my own land. And I don't want
22 to be a serf on my own land. I want to be independent.
23 Could I think independent farmers and ranchers selling in
24 a competitive market can compete with anybody of any size,
25 whether they're small producers, 1,000-head cattle

1 producers, 100,000-head feedlotters? You know, there is
2 very little in the economy of scale, and we can compete if
3 we have a fair market.

4 Now, the cow-calf section of agriculture is a
5 little bit unique in that it is the only part of
6 agriculture that still markets through an auction system.
7 And in recent years, we've been marketing more and more
8 through video Internet auction systems. And they work
9 very well. They're a very inexpensive way to, you know,
10 market our cattle. And we market them through forward
11 contracts.

12 Now, if you could make a forward contract for
13 fall delivery of feeder calves, you sure as hell could
14 make a forward contract for, you know, two- or three-week
15 delivery of fat cattle. That's -- there's no big trick
16 here. All we need to do in order to restore competition
17 in the cattle industry is require that the beef packers
18 buy out in the open, in the public.

19 MR. WEISER: So, Gilles, you've anticipated
20 my next question. I will turn to Clem and ask him, which
21 is, How are the markets for the buying -- be it spot
22 market, exchanges, forward contracting -- evolving? And
23 how do you analyze their current dynamics?

24 MR. WARD: And I think we've talked about some
25 of this. I mean, that's -- and I guess I'll do it. In

1 1993, I think, on the hog side, 87 percent of the hogs
2 sold were from cash market, we've said many times. Last
3 year, that averaged 6 percent. Now some weeks it may be
4 down below 5 percent. On the cattle side, in -- in the
5 late 1990s, we were at about 60 percent or so in the cash
6 market. Last year, on average, it was about 35 percent.
7 So we have had an increase on other kinds of marketing
8 arrangements; the so-called AMAs.

9 There's been some people, obviously, not very
10 happy with a formula price to the cash market. I know
11 myself and other economists have said for a long time that
12 people who are formula pricing ought to try to be looking
13 up at the wholesale level; something that a packer would
14 try to push up as high as possible rather than tying that
15 price to a price that a packer would try to push down as
16 much as possible.

17 But there's problems in doing that. There are
18 a few people who are, both in the hog industry and the
19 beef industry, trying to contract, trying to formula price
20 to the wholesale market. There's been an increase in hogs
21 and cattle the last ten years in forward contracting where
22 you're pricing to basically the future market, as somebody
23 alluded to in the open-mike session this morning. So
24 people are looking for other alternatives. And as we get
25 thin markets, as I think will probably be mentioned later,

1 some people are voluntarily trying to support that market
2 by marketing a part of their hogs or cattle through cash
3 trading and, in part, through contracts.

4 MR. WEISER: Armando, you are having to face
5 this question on a regular basis. How do you go about
6 marketing your cattle?

7 MR. VALDEZ: You're trying to look for as many
8 options as possible for the best price. It comes down to
9 profitability and looking for the option which gives you
10 that biggest margin or greatest margin out there. I've
11 done -- or worked through several different marketing
12 options all the way from the spot-marketing cash markets,
13 trying to inform buyers there at those markets, you know,
14 know the quality of the cattle, some premiums such as the
15 natural aspects that we keep with our cattle, also looking
16 at forward contracting and other contracting markets. And
17 it's difficult.

18 I don't know if it's the region of where I'm
19 at. In South Central Colorado, we're a little more
20 isolated. We do have to ship those cattle a lot further
21 away than someone who has, you know, a feeder right down
22 the road. I don't have one probably within, you know, 150
23 miles. And so I'm trying to see how I get those cattle
24 out at the best price. And so it is a challenge finding
25 options a lot of times, and it's a lot more work on my

1 part.

2 There was a gentleman this morning on the
3 panel who mentioned, you know, we're out there trying to
4 ranch, farm, produce the best-quality product. And then
5 we're asked then, you know, to market it. And then we're
6 asked to make these changes of what the buyers want. And
7 it's constantly more pressure being put on a producer.
8 It's like kicking a man when he's down.

9 MR. WEISER: I want to -- before I come back
10 to this, I want to put another piece of this equation on
11 the table, which is the credit side that Mark deals with.

12 One suggestion we've heard is that part of the
13 push towards the forward contracting or captive supply, as
14 some have called it, is they need to have those contracts
15 to get credit. Mark, how do you analyze that issue?

16 MR. GREENWOOD: You know, I kind of feel like
17 the cold cow here or the cold pig, being a lender. And I
18 don't know if I was the only one crazy enough to be on a
19 panel with this many producers.

20 MR. WEISER: I think Libby feels that way,
21 being a retailer on the panel.

22 MR. GREENWOOD: Yeah. Libby, we should have
23 sat by each other.

24 And my first thing is I work almost
25 exclusively in the swine sector. I -- you know, there's

1 not a lot of cattle in Minnesota. So my knowledge base is
2 much more on the swine side. When we look at marketing
3 agreements in order to -- and to get access to capital, it
4 had been a driver in order to get access to capital as
5 we've -- we went through it. If you kind of look at the
6 volatility in the marketplace that we've seen over the
7 last 13 years, just -- even if you look over the last 12
8 months -- we went from -- I think a producer talked about
9 \$105 a pig last August, where today we're making \$160.

10 Now, most of the marketing agreements, per
11 se -- and the other thing I would say as a lender, we
12 continually learn. And I think we have to learn kind of
13 through history. The thing that I talk about with our
14 producers is -- you know, we have a relationship with our
15 producers. We work very, very hard on making sure that we
16 try to make our producers profitable at the end of the
17 day. Because if they go out of business, that's not good
18 for us by any means. So we want a viable industry going
19 forward.

20 So part of the things that we talk about with
21 marketing agreements, they're -- they are pretty much
22 shackle space where you have an alignment with the packer
23 that gives you, you know, the option to deliver those
24 pigs. The issue today when we have less supply because
25 of one of the plants that got closed in Sioux City --

1 because we have less supply -- August of last year, I had
2 producers that were selling on the open market that could
3 not sell pigs for three weeks. And that was a problem.

4 So, you know, as a lender -- and I'll give you
5 kind of how my job works. I'm not the person that makes
6 the decision when we do the yay or the nay on the credit.
7 I'm the relationship manager that goes to his farm, tries
8 to understand his business the best -- the best he can.
9 And then we kind of work together on trying to develop a
10 business plan that works best for his business.

11 I have to go in front of a credit committee
12 and kind of explain this to our credit committee. And
13 part of the things they're going to ask is what type of
14 alignment or what type of marketing agreements do they
15 have in place to ensure -- that mitigate some of that
16 risk. If you're a younger producer, which -- the only
17 comment I make is in Minnesota, in the Midwest, we do have
18 young producers that are very successful today, raising
19 odds. We've been able to do that. I -- and we've worked
20 together in the -- in developing marketing plans. We do
21 extensive training on risk management using futures and
22 options. We might do forward contracts with the packer.
23 But it's using all the toolbox (sic) in the toolboxes to
24 make sure that that producer has a chance of being
25 profitable.

1 Now, part of that is -- the issue is if a
2 producer -- a young producer that's 25 comes to me and
3 says he's going to sell all the pigs on the open market,
4 you know, I might have a high integrity (sic) that he has
5 the management capabilities to be able to do that. But
6 the question that I'm going to get asked is: What risk
7 management is he going to use? Is he going to be able to
8 use futures? Is he going to have a place to deliver his
9 pigs? Those are the questions I get asked.

10 So, you know, I do think, when I look at 5
11 percent of the spot market today, it is a little bit thin.
12 But again, where I'm at, I'd prefer not the government to
13 decide what that is. I trust my producers in making those
14 decisions for them.

15 MR. WEISER: I'm going to go to Jerry with --
16 the broader question is: Do the current institutions in
17 the market provide sufficient price discovery opportunity
18 and transparency? Is that something that you're
19 comfortable with? Obviously, some people suggested that
20 there may be a flaw in the current system. What's your
21 view?

22 MR. BOHN: I can speak for our company. We
23 have at least three buyers every week; sometimes four. We
24 sell about 60 percent of our cattle. We market about
25 175,00 to 200,000 fed cattle a year. About 60 percent of

1 our cattle are merchandised in the cash market, and about
2 40 percent are on grids or possibly forward contracts;
3 those kinds of things. So we see -- and I think the Texas
4 Panhandle, Kansas markets, Nebraska, Colorado are all
5 fairly competitive in that regard.

6 And I want to speak -- I want to back up a
7 little bit and speak about marketing opportunities. You
8 know, one of the things we're talking here today are the
9 fact that small producers don't have a chance to
10 participate in these marketing systems that we have today.
11 I want to share a little data with you from U.S. Premium
12 Beef first, and then I want to share a personal one with
13 you from our company.

14 U.S. Premium Beef has marketed about 8 million
15 head -- had about 8 million head of cattle delivered
16 through -- in its system since it started in 1996. The
17 average premium per head for every one of those animals
18 was \$21.74 per head above the cash market. But we found
19 that the smaller producer's got an even bigger price,
20 bigger premium. 82 percent of our members deliver less
21 than 500 cattle a year. I think they would be considered
22 small producers. And our sort there, the top 25 percent
23 premiums that were paid in -- with the company, the top
24 premium went to the group made up of members that deliver
25 less than 250 head a year. They got \$63.48 a head

1 premium.

2 If you look at the top 10 percent of the
3 premiums, the members that delivered less than 250 head of
4 cattle per year got \$79.74 a head per year. The
5 second-highest group were those that delivered under 100
6 head a year. I would consider them small producers also.
7 They got \$79.57 a head premium. So there are
8 opportunities today -- in the market systems that are
9 existing today for small producers to participate.

10 Let me share a personal one with you. I had a
11 group -- a man in the spring, a customer from Kentucky.
12 He had 18 head of cattle in a feedyard. He was part of a
13 multiowner pen. He had grouped with some of his neighbors
14 to send a pen of cattle to our feedyard. When we
15 merchandised his cattle, he got \$129 a head premium for
16 those 18 steers. Now, if he would have took them to the
17 auction market or if he would have sold them in the cash
18 market where everybody gets the same price for same
19 cattle, he wouldn't have gotten that premium.

20 So I'm telling you, there are opportunities
21 for each one of you to participate in the market today and
22 to get a higher price for your cattle.

23 MR. WEISER: I'm going to come back -- yeah.
24 I'm going to come back to that in a minute. A little bit
25 more discussion about sort of the price discovery and

1 transparency. Mark, go ahead.

2 MR. GREENWOOD: Just 30 seconds. If I look at
3 our portfolio over the last two years when we saw corn go
4 from almost up to \$8 to now sitting at about \$4, the
5 independent producer that raised most of his own corn
6 compared to the larger producers that had to buy a lot of
7 their own feed stuff had a much better -- fared
8 financially -- and we look at the portfolio -- they have
9 fared much better financially than that larger producers.

10 So it goes back to Jerry's point. An
11 independent producer, if you have market opportunities,
12 can compete with anybody. And actually, when I look at
13 the Midwest, from a global perspective, U.S. pork
14 production is the best in the world.

15 MR. WEISER: Let me go to -- we have two
16 producers. I'd ask you, from your perspectives, have you
17 been able to get enough insight into the price system so
18 that you feel you're able to know where and how to sell,
19 or do you feel like there are some sorts of structural
20 limitations.

21 Armando?

22 MR. VALDEZ: From my perspective, I don't
23 think the information sharing is there. I don't think the
24 transparency is there. Because if all those premiums were
25 available, I don't think this room would be full with all

1 of these different individuals out here. I think there is
2 preferential agreements. I think if you're -- fit within
3 a certain characteristic or fit into a certain box or a
4 certain area, I think there are those premiums available.

5 Being an individual, like I said, with
6 distance as an obstacle, I know I'm getting discounted
7 automatically. And that becomes a challenge. And I know
8 there's other ranchers and producers out here who feel and
9 share those same experiences, especially in my area.

10 MR. WEISER: Gilles, what's your experience
11 been?

12 MR. STOCKTON: Well, you know, it's a little
13 bit complicated because we've got two sides to the cattle
14 industry. And I'm a cow-calf, and I'm not really dealing
15 directly with any packers. And I never -- although I did
16 last year. I got one bid; take it or leave it. And I
17 took it. A week later, the market started going up. And
18 for no reason -- for no reason whatsoever.

19 You know, and when you look at the market for
20 cattle in the last three years, it's been going up, down,
21 demand of constant, demand is pretty good even with the
22 recession. Numbers are down. The market is going up.
23 The market's going down. You know, you're USDA, GIPSA.
24 You tell me why. Because it makes no sense to me.

25 There's something I wanted to kind of just

1 finish from my previous talk there. In 1996, the Western
2 Organization of Resource Council gave USDA a petition for
3 rule making. And there were hearings held in Denver in
4 2000; very extensive hearings. And some of these same
5 people were there, and I've see quite a few of the people
6 here. Did I lose my page? Where did it go?

7 MR. WEISER: We can come back to --

8 MR. STOCKTON: No, no. I'll just finish.

9 So we had those hearings, and there was never
10 a ruling from the USDA. And the subsequent secretary of
11 agriculture had not ever made a ruling. I am submitting
12 today, you know, a letter -- and if you can give this to
13 Secretary Vilsack and Attorney General Holder -- asking to
14 look at this rule, this competitive and transparent
15 pricing rule. It's a very, very simple rule.

16 All it says is that beef packers should make
17 their forward formula contracts in an open public-manner
18 bid with a base price. And the second part of the rule
19 says that if packers are feeding livestock, the livestock
20 should be marketed in an open public manner. There should
21 be a firewall between their packing subsidiaries and their
22 feeding subsidiaries. I'm just saying, let's take what's
23 being done under the table and in the dark and just bring
24 it out in the sunshine.

25 MR. WEISER: Clem, how do you analyze the

1 price discovery issue?

2 MR. WARD: When we talk about price discovery
3 and when you talk about concentration both, there's an
4 aspect here that, I think, has been alluded to but we've
5 never really openly addressed it. And that's a fact
6 that -- you know, if you're situated in the heart of
7 hog-production country or you're situated in the heart of
8 cattle feeding, you know, the concerns that you may have
9 about price discovery and concentration are probably going
10 to be less than if you're out in some of those other
11 areas -- what I would call fringe production areas --
12 where you may be more adversely affected.

13 There are regional differences. The RTI study
14 found regional differences in the amount of AMA used by
15 packers by region, both in the hogs and in cattle. But we
16 also know that as concentration increased and we began to
17 close plants and so on, it was usually in those areas
18 where there were not a lot of supplies nearby. So those
19 are a lot of the areas where many of you are from and have
20 major concerns about not having opportunities because
21 those plants are no longer there.

22 I just thought it should be mentioned that,
23 you know, there is some -- there are some regional
24 concerns here associated with price discovery and
25 concentration.

1 MR. WEISER: So the other question I want to
2 put on the table is with respect to something which has
3 been talked about but worth talking about expressly, that
4 there's an opportunity for premium products for niche
5 areas. People seem to have a difference of opinion on
6 exactly how readily available that is.

7 Libby, why don't you start off. Where do you
8 see those opportunities? How extensive are they?

9 MS. COOK: I mean, I see opportunities in more
10 progressive practices, such as better animal husbandry and
11 welfare practices. I mean, we see a lot of negative
12 publicity in the beef industry just with movies like
13 "Food, Inc." or "Omnivore's Dilemma." And I think that's
14 caused problems for the beef industry from a consumer
15 standpoint.

16 So in terms of educating the consumer and
17 marketing possibilities, I think promoting better
18 husbandry, animal welfare practices, using antibiotic-free
19 vegetarian-fed or grass-fed beef, also raising different
20 breeds, whether it's leaner or heartier brands, Angus or
21 Hereford -- more quality brands -- or it's selling direct
22 to consumers through farmers markets, selling directly to
23 specialty restaurants or retailers, creating cooperatives
24 to create a better base from which to have marketing power
25 or creating value-added products in the organic and

1 natural markets in particular. There's an explosion of
2 consumer demand for value-added products.

3 I talked with Mark McKay, the CEO of Coleman
4 Natural Products down in Colorado. And he had recently
5 met with a group of ranchers in Iowa, and they were using
6 a local small packer to sell products and create
7 value-added products that he then distributed to the
8 natural foods industry; everything from flavored sausages
9 to meatballs to -- you know, I know I've seen organic
10 jerky -- beef jerky products; that type of thing.

11 MR. WEISER: So, Bill, I want to go to you on
12 this one. We heard someone this morning say that the
13 problem is if you want to sell directly to consumer
14 stores, restaurants, you've got to go through a USDA
15 facility. And that may not be easily accessible. How do
16 we bring the opportunities that Libby talked about and
17 square that with that challenge that was talked about this
18 morning?

19 MR HEFFERNAN: It's not easy. And that's one
20 of the big issues. But before we get too optimistic about
21 these alternatives, may I just remind you that Laura's
22 Lean Beef sold out to Meyers (sic) all-natural angus down
23 in Loveland here. And that was in '08, I believe. And
24 then Coleman sold out to the same organization. So
25 Coleman All Natural want to Meyers. And I think it's the

1 beginning of this month, less than 30 days, that Meyers
2 all-natural angus was basically. Let's say they call it a
3 go-to market effort with Cargill. But, basically, all the
4 processing and so on is going to be shifted over to
5 Cargill.

6 The bottom line is once we do get these set up
7 and if they're successful -- and I pick on these
8 especially because these are such well-known brands. If
9 there's any badder brands in the country, these are the
10 three. And yet, basically, for all practical purposes,
11 those producers who used to have a unique product -- it
12 will stay that way for a while. But the whole identity --
13 the real benefits of some of these alternatives are being
14 lost pretty rapidly when it gets put into the system like
15 that.

16 And as I said earlier, I was on the board of
17 Ozark Mountain Pork. That's sort of an interesting one
18 because after the price of hogs dropped at the end of
19 the '90s, the USDA, the Rural Development Division, gave
20 out a lot of grants to farm -- farmers who had hogs who
21 were trying to put together an alternative market. And
22 that -- including, perhaps, putting together a processing
23 plant, to get back to the real question here. And,
24 interestingly, we got started. We had our problems along
25 the line. But eventually, we got things sort of going.

1 Now, we have a pretty big debt in the meantime and we were
2 sealing -- we were selling meat on the West Coast. We
3 were out on the East Coast. We were in the -- to a
4 distributor with the high-end restaurants on the east
5 coast. We were into Whole Foods.

6 And then at Meadowbrook, we were -- there
7 ended up being three -- sort of three cooperatives, three
8 organizations working together on this. Because we had
9 the -- we had the farmers with us to raise the product to
10 begin with. But it took so long to get the market, we
11 didn't have a market. By the time we got the market, we
12 no longer had many producers left in our organization.
13 And Meadowbrook had this nice facility, but they couldn't
14 keep it busy. So we teamed up with Meadowbrook and
15 another organization that had producers that needed a
16 place to go. So we sort of had three cooperatives working
17 together cooperatively. That was a nice way to do it.

18 Then Meadowbrook finally got in trouble and
19 they went under. Those of you who followed the news in
20 the last week, that facility just finally -- it's been
21 sitting empty since then. It got picked up by another one
22 that's going to try it. We have a common saying in our
23 group. We bought our processing plant after someone went
24 broke. And the saying on our board was, While the first
25 mouse doesn't get the cheese, the question is, will the

1 second get the cheese? So maybe now the second one in
2 will get it.

3 But the bottom line -- there was a processing
4 plant, got it set up, got going, couldn't make it. Before
5 long, our other partner had some real financial issues
6 given just the whole commodity issues and so on. They
7 pulled out. We were going on our own. And one day, we
8 got a call from journalists -- there were three
9 journalists that called. One from USDA, one from a farm
10 magazine, and one from a trade journal. And they wanted
11 to suddenly know more about our organization. We had the
12 sense maybe that we were the only ones -- we know there
13 weren't many. We have been the last one standing of those
14 people who got those USDA grants.

15 MR. WEISER: Well, I --

16 MR. HEFFERNAN: And let me just add that. And
17 before that, David Zoller (phonetic) got a call from the
18 president of the board of directors saying we were done.
19 We were sold out. We're done.

20 MR. WEISER: So to -- another farm metaphor
21 there. It could be said to be a chicken-and-egg problem
22 here. If you don't have the processing facility, it's
23 hard to have --

24 MR. HEFFERNAN: There you go.

25 MR. WEISER: -- the opportunities --

1 MR. HEFFERNAN: There you go.

2 MR. WEISER: -- to get it developed. If you
3 don't have the people selling, it's hard to make it work.

4 Mark, you have a unique perspective on what it
5 takes to make these facilities viable. What are your
6 thoughts?

7 MR. LAURITSEN: Just -- Bill brings up an
8 excellent point about, you know, Laura's Lean and Myer and
9 the transition that's going there. The question to be
10 asked is: Why did they end up consolidating at the
11 beginning levels and at the end? And here's the thing.
12 So if we all close our eyes, wave the magic wand, if we
13 woke up tomorrow and the dream came true and under the
14 current U.S. law we busted up the big packers, so what
15 would it look like?

16 Well, the law says you have to divest. So
17 somebody has to operate that facility. How long could an
18 independent plant out there by itself in Marshalltown,
19 Iowa, withstand the price pressures that are put on them
20 by the large retailers like Wal-Mart squeezing every ounce
21 of profit out of them. We end up, I think, with less.
22 And plants that sit empty -- because then they're no
23 longer, you know, being divested. They just couldn't make
24 it as a company, so they go out of business.

25 Well, who gets hurt there? The producer has

1 nobody to sell their stock to and the worker has no place
2 to work. The consumer gets less choice. Those
3 communities are devastated by the loss of good jobs in the
4 community. So as we look at this, I don't want to sound
5 like I'm beating this drum to death. But there is a large
6 component that really needs to be addressed. Hopefully it
7 gets addressed in Washington. These retailers are
8 exercising way too much power in this industry, and
9 somebody's got to call them on it, and they have to do it
10 soon.

11 MR. WEISER: I want to ask to go to -- go to
12 our panel and ask each one -- each member of the panel, in
13 a minute or so, to give their advice to a start-up rancher
14 who is getting into the business to understand, obviously,
15 the challenges that we talked about, what kinds of counsel
16 would you give them?

17 Clem, why don't you start us off.

18 MR. WARD: Well, I think someone said earlier
19 you need to use all the tools available. But capital is a
20 huge issue for young farmers, I think. Some of us who
21 have some land know how much land has appreciated. For
22 some of us, that's a wealth effect and that's nice. But
23 for a young farmer, that just is a tremendous obstacle to
24 getting in the business. And so, you know, you're going
25 to have to use Enterprise Budgets. You're going to have

1 to use cash-flow planning and every tool that's available
2 to make sure you don't overinvest.

3 The standardized production analysis data
4 shows pretty clearly that the top quartile in
5 profitability are those operations that have below-average
6 investments in land, equipment, and cattle above average
7 production. So you have to take care of the production
8 end of the business and you have to concentrate on
9 marketing. And that means doing the things that the
10 market suggests. And, for example, we've been trying to
11 push preconditioning programs in Oklahoma and many other
12 parts of the Midwest because we think there's some
13 premiums there that cow-calf producers can benefit from.

14 MR. WEISER: Gilles?

15 MR. STOCKTON: The question is: Advice to a
16 young start, what can they do? What's that old saying?
17 If you're going to get married, she might as well be rich.

18 I don't think someone could get started the
19 way I got started and make a go of it. And part of it
20 that help me a lot -- besides my parents, of course -- was
21 USDA and the Farmers Home Administration; probably the
22 best program USDA ever had. And after helping me with low
23 loans and helping me on planning and business and advice
24 and stuff, after about 12, 13 years, they told me it was
25 time to graduate. And I did and I'm still here. But I

1 can help my son quite a bit, but I don't think he'd be
2 able to make a go of it unless he finds that rich girl.

3 MR. WEISER: Jerry?

4 MR. BOHN: I'd say get a good education, get
5 some business experience, maybe even go away and work away
6 from home for a year or two with somebody else, work with
7 your banker to establish that relationship, learn about
8 risk management. We're in a risky business. Not enough
9 of us know how to manage risk. And I think they need to
10 as they come into the industry, they need to understand
11 how to manage risk.

12 Let's get rid of the state tax, make it easier
13 for these people to come back to the farm and ranch.
14 Let's lower the cost of regulation. Air reg, water regs,
15 it's unbelievable what the cost of that is right now, and
16 the negative impact it has on agriculture. How are we
17 going to repopulate rural America if we regulate them out
18 of business?

19 And finally, we've got to figure out how to
20 make land cheaper. You know, we've got to quit letting
21 land be developed for cities. Urban sprawl and recreation
22 is ruining our -- the opportunity for young people to buy
23 land in all parts of the country.

24 MR. WEISER: Libby?

25 MS. COOK: Coming from the small-business

1 perspective, I'm the consummate entrepreneur and always
2 optimistic and always think that there's a way for
3 business to compete. Small-business owners need to be
4 creative, need to have aggressive marketing strategies.
5 And I do a lot of small-business consulting. And I feel
6 like, you know, just like any other small business,
7 creating a niche and being creative, looking for
8 opportunities where you might not think there are
9 opportunities, is the best way to succeed.

10 MR. WEISER: Mark?

11 MR. LAURITSEN: Well, where I grew up, you
12 either raised it or killed it. My family killed it. So
13 my advice to anybody starting up in anything, I guess,
14 would be: join a union.

15 MR. GREENWOOD: Actually, you know, from the
16 swine sector, we have had some success with young
17 beginning farmers getting in. I can give you countless
18 stories of -- we did loans -- young beginning farmer
19 loans. And we have young beginning farmer programs where
20 we were leveraged at -- they didn't hardly have a --
21 what's the term -- a pot to piss in.

22 But, you know, we developed young beginning
23 farmer programs that had contract arrangements for
24 contract -- with a contract pig owner. It's been paid off
25 over a ten-year period. Now they've had the choice -- and

1 they have the choice, however -- if they want to own pigs.
2 Some of them are and some of them have chosen to be
3 contract still -- vendor contract production. That
4 program has been one of the best young beginning farmer
5 programs that we have had in our association bar none.
6 And it has allowed -- I can give you countless stories of
7 farmers -- these young guys in their mid-20s, now they're
8 actually owning some pigs, also owning some land, that
9 have done pretty well.

10 I'll give you one quick story. We had a
11 college intern last year. He did a lot -- he's a lot
12 smarter than me, by the way. Family farm, 500 sows for
13 finish. He came in and he was helping us kind of analyze
14 our portfolio. But he -- I said, If you had a wish, what
15 would you do? What did they want him to do? He put
16 together a live break-even using the Chicago Board of
17 Trade with futures, live with corn meal and hogs, and that
18 kind of helped kind of do average costs. Well, he built
19 it in about two days and it's live. There are a ton of
20 bright young people that have -- and he went back home
21 farming, by the way. But he's using that tool to manage
22 his risk. So there is opportunity, by the way.

23 MR. VALDEZ: Agreed, there are plenty of
24 opportunities. I think it's a great question. Because
25 young farmers, we're all vested in them. We need food.

1 We need food production. So in starting to think about
2 this question, it was what would I like to tell them or
3 what do I need to tell them?

4 I'd like to tell them, you know, it's a very
5 profitable industry. They have to get in it. There's
6 nothing else better. Great lifestyle, great communities,
7 great and plentiful market options where they can make
8 lots and lots of money. What I need to tell them is that
9 they need to be efficient because there's slim margins.
10 And any errors out there are going to quickly wipe those
11 away. So a good education and understanding risk
12 management, I think, is very, very important. Also, you
13 need to watch your cash flows. You need to see where that
14 money is coming in and where that money is going out.
15 Don't depend on a banker.

16 I like the gentleman's idea about finding a
17 rich spouse. You know, unlike the husbands down there, I
18 put down, you know, find a rich aunt or uncle and get the
19 money; get the animals from Mom and Dad. The state taxes
20 are an issue, especially in rural America. But if you're
21 going to pass an estate and you're going to die, 2010 is
22 the year. Just ask George Steinbrenner. And there's an
23 ad that goes, If you want to make a little money farming,
24 start off with a lot of money.

25 It's very honorable, very honorable to raise

1 food for the American people and the world. I take a lot
2 of pride in that and I consider it a strong privilege to
3 live in the lifestyle and the community that I do live in.
4 There should not be a trade-off, though, to have that
5 wonderful lifestyle and honorable profession and trade off
6 for economic opportunity. We shouldn't have that
7 trade-off.

8 One final comment, I think we don't need to
9 look just to our rural communities to develop young
10 farmers. We need to look for flight from our urban and
11 suburban neighbors. We're so much looking at how do we
12 keep them on the farm. We need to keep them on the farm,
13 but we also need to find how people are going to get into
14 farming industries as well. So there's a lot of options,
15 a lot of opportunity. We just need to develop the
16 mechanism and the infrastructure to do so for those young
17 people.

18 MR. WEISER: And, by the way, later today,
19 Armando is going to be doing a standing-up comedy routine
20 at Congressman Markey's ice cream shop for those who want
21 to stop by.

22 MR. VALDEZ: How do you think I went through
23 Colorado State University?

24 MR. HEFFERNAN: Well, the question isn't
25 exactly just hypothetical for me. About a year ago, I

1 learned about a young fellow, a senior at the College of
2 Ag, finishing up. He lived about six, eight miles from me
3 and he wanted to farm. He's gotten an FSA loan and bought
4 some cattle. There were a couple of landlords who rented
5 him land at below what I would call a market price that
6 they could have rented it for; giving him a break.

7 I'm trying to downsize, so I've got a little
8 more time to do things. I need somebody to help me in the
9 wintertime, and other times to look out for my animals
10 when I'm traveling. And so I've got machinery capacity
11 for hay making and so on that I don't use much anymore.
12 And so I could help him out on that. So some of us sort
13 of got together talking about this.

14 But when you really get right down to it, he's
15 either got to -- someone said earlier -- market, really
16 spend some time marketing. And people who do this tell me
17 when they're producing -- Armando, you brought that up --
18 you've got to spend about half your time producing and
19 half your time marketing when you do that.

20 MR. VALDEZ: Another half taking care of
21 everything else.

22 MR. HEFFERNAN: Yeah. You do that after dark.

23 MR. GREENWOOD: You need a good banker,
24 though.

25 MR. HEFFERNAN: Well -- and that's really the

1 point. With all that going for him, are we really going
2 to do him a service by putting this piece together? It's
3 still a question.

4 MR. WEISER: So, Bill, you made a reference --
5 I want to say, unfortunately, there's no time to get to
6 the comments. But this one, we have to say, which is:
7 Thank you to all the people who stayed home, so we could
8 be here today, taking care of our cattle, livestock, and
9 farms.

10 We're aware a lot of people couldn't make it
11 because they were helping those who came. This has been a
12 great panel discussion. It's very helpful. I want to
13 thank you all. And then we'll segue onto our next panel.

14 (A recess was taken from 2:49 p.m. until
15 2:56 p.m.)

16 MR. MACDONALD: My name is Jim MacDonald. I'm
17 with the Economic Research Service of USDA. And we have a
18 group of participants on this panel with, I would say,
19 both deep and brutal experience in the business. I'll
20 introduce them to begin with. Starting to my right at the
21 end of the panel, we have Bruce Cobb, who is general
22 manager for Consolidated Beef Producers, a feeder-owned
23 cooperative that markets cattle, two packers, on behalf of
24 their feeder members.

25 Next to Bruce we have Dave Domina. He's an

1 attorney with Domina Legal Group, who is also the lead
2 attorney in the Picket IVB (phonetic) case. Next to Dave
3 we have Mark Dopp, senior vice president of the American
4 Meat Institute. Next to Mark is James Herring,
5 immediately to my right, president of Friona Industries, a
6 feedlot company with four lots in North Texas.

7 To my immediate left is Bob Mack, cow-calf
8 producer and feeder in South Dakota. Next to Bob is Bob
9 Miller, rancher and deputy director for the Division of
10 Tribal Affairs for Muscogee Nation. To Bob's left is Bill
11 Rishel, cow-calf producer in Nebraska and president of the
12 Nebraska Cattlemen's Association. And finally all the way
13 to the left end of the table is Charlie Rogers, who is
14 owner-operator of Clovis Livestock Auction in New Mexico.

15 We're going to cover two broad topics. And as
16 you might guess, we're going to be integrating cross
17 panels. We're going to be talking about some topics that
18 you've heard a little bit about already. I want to start
19 the panel off talking about some issues related to
20 concentration and competition in the fed cattle business,
21 and then I want to shift over to a discussion about
22 marketing practices.

23 Let me start with concentration questions.
24 We've heard the broad numbers in several different panels;
25 that it's about 80 percent of the fat cattle in the

1 country are purchased by the four largest packers in the
2 country. We found in the investigation of the proposed
3 JBS National merger last year that through most of the
4 High Plains, most sellers faced three to four bidders, a
5 number that we heard in a few earlier discussions.

6 So I want to start off and talk about the
7 nature of concentration in different elements of the
8 business. So let me start with James Herring and ask him,
9 in your experience, do you typically face three to four
10 potential buyers for your cattle, and do you think that's
11 an accurate representation of the situation in the High
12 Plains?

13 MR. HERRING: Well, first of all, Jim, thank
14 you for allowing me to begin this panel and for being here
15 in the first place. Looks like we've got a lot of
16 interested participants out there. And I guess it -- I
17 need to introduce at least at the beginning that we are a
18 relatively large cattle feeder in the Texas Panhandle. We
19 have worked for the last 13 years to create a vertically
20 aligned production system into a series of brands that we
21 put into Safeway and Harris T and some other retailers.

22 All of our cattle are merchandised in a
23 formula based off the cash market. So we have our antenna
24 up on the cash market at all times. And I might add that
25 I have -- as the president of the Texas Cattle Feeders, in

1 1996, I was instrumental in getting the ball rolling on a
2 cooperative call of consolidated beef producers who are
3 also represented on this panel.

4 We have three to four packers out in the Texas
5 Panhandle that participate on a very aggressive basis. We
6 are lucky as a region because our packing community has
7 excess capacity. We have kill capacity that's above our
8 supply by about 15 percent. So if you own 100 head, you
9 own 100,000 head, you market 100 head a week, if you're
10 feeding in the right spot and you have the right kind of
11 cattle, desirable cattle. Keep in mind that regardless of
12 what anybody tells you, there are differences in value in
13 livestock.

14 Regardless of that, we have an active
15 participating marketplace out there with four interested
16 parties that are trying desperately to fill up their
17 capacity every single day and every single week. And that
18 creates a pretty stimulative marketplace.

19 MR. MACDONALD: Let me just follow up a
20 little. I've had several other people involved in the
21 feeding business on the panel. Is that your experience,
22 for example -- Bob Mack -- do you seek three to four
23 buyers?

24 MR. MACK: No. In most cases three would be
25 the max. Normally we've got one or two that have smaller

1 feeders. And the feeders that I work with are smaller
2 feeders, I think. There would only be a few of them that
3 would market 10,000 plus head a year. If you're in the
4 cash market, you're a residual market. And basically once
5 the packers that are in the market have their captive
6 cattle killed, they'll -- then they come into the cash
7 market. And quite often I think buyers are even just a
8 little bit lazy about it. They go -- they start off with
9 the biggest lots that might sell some cash cattle and work
10 their way down.

11 MR. MACDONALD: So is it generally true that
12 we would expect people with greater volumes to have more
13 bidders for their cattle? Is there a relationship between
14 bidders and the number of cattle?

15 MR. HERRING: Well, I think the example was
16 100 head a week or 100,000 head a year or 100 head a year.
17 And our market is a weekly market, so 100,000 head a year
18 is about 1,800, 2,000 head. And we're lucky we have an
19 active participating marketplace out there as I mentioned.
20 Kill capacity is pretty vigorous. In my mind, again, pick
21 the right feeder, pick the right cattle, you have
22 aggressive participation for the purchase.

23 MR. COBB: Jim, if I could comment on that as
24 well. At CDP we've been in business for 10 years and
25 market a lot of cattle. And we're the largest marketer of

1 cattle in the negotiated market in the country as a co-op,
2 organizing the Cattle Alstead (phonetic) Act. And we see
3 the market function every week not just with any other
4 region, but cross regions. So we have a pretty good feel
5 of what's going on in the marketplace as it relates to
6 bidding. And while potentially there are four market
7 participants, what we see typically region by region is
8 there are really one to two, meaning full participants,
9 rarely three and four, meaning four participants is very
10 much of an oddity.

11 And one of the things that we value very
12 greatly at CDP is that we're very data driven, number one.
13 We work week in and week out to understand the markets.
14 Each market is different. A lot of dynamics going on.
15 Conditions change, so we study them in great detail. So
16 we tend not to lend ourselves to what we subjectively
17 believe, okay, but what is objectively true, greatly data
18 driven, as I said. So let's just look at the data, what
19 does the data say about bidding in the marketplace. And
20 we did our own assessment and challenged ourselves very
21 deeply on this. And we looked at the last 52 weeks in
22 Texas, Oklahoma, and New Mexico.

23 In the last 52 weeks, there were three
24 meaningful market participants five times, five weeks.
25 Only two weeks were there four meaningful market

1 participants, so a total of seven over a 52-week period
2 could be defined as perfect competition. Additionally,
3 there are 18 weeks in which there was only one market
4 participant, four weeks in which there were none. So a
5 total of 22 weeks we had a market that was defined as in
6 perfect competition. So we consistently can see region by
7 region where we had a presence where the region is
8 dominated by one buyer, clear and simple.

9 And the fundamental reason we see this kind of
10 behavior going on is because of the large volumes of the
11 non-negotiated supplies that are already committed. And
12 I'll tell you this: Guys, as an industry, we have to
13 recognize the problem because it's not just a problem to
14 the negotiating market; it's a problem to the entire
15 health of the U.S. cattle industry.

16 MR. MACDONALD: Let me keep just a brief
17 follow-up now on the concentration side. In particular,
18 the areas that Clem Ward in the previous town described as
19 fringe areas perhaps outside the High Plains. Then if you
20 have experience or want to comment on the number of buyers
21 we tend to see in areas outside the High Plains.

22 MR. MACK: The numbers will generally be less,
23 and a lot of times you're dealing with regional factors.
24 But it's not uncommon. We're -- when we deliver cattle,
25 we're hauling the cattle up to 800 miles, quite often. So

1 there's other factors involved there, too, but I agree
2 with what he says, it's not only the cash cattle that are
3 being affected, it's also that's establishing the price
4 for many of the captive capital. And so when that market
5 is pressed, it's actually driving the capital market down
6 also.

7 MR. MACDONALD: Let me give you one more quick
8 one since you brought up distance. Are those distances
9 for fat cattle?

10 MR. MACK: Yeah, one way.

11 MR. MACDONALD: Now, I've talked a little bit
12 about numbers, and Bruce touched briefly on volumes and
13 bidder numbers. Let me follow up a little bit with Bruce
14 and see if -- we also want to have other people jumping in
15 on this.

16 Bruce, do you also see that volume matters in
17 the types of prices that you're able to get? In other
18 words, do you get price premiums related to volumes of
19 cattle that you're selling particular transactions?

20 MR. COBB: I think in any industry, yes,
21 volume does matter. It does speak, whether you're talking
22 agriculture, airline industry. It really doesn't matter.

23 What does matter is taking time to understand
24 the marketplace and study. We at CBP strongly believe
25 that you have to get in and study the business week in and

1 week out to understand the dynamics and the conditions of
2 each marketplace. Markets change not because of some
3 whim. Markets change because of fundamental supply and
4 demand, and you have to understand that. And there also
5 has to be a balance in terms of buying and selling power.
6 That is a business strategy in any industry.

7 MR. MACDONALD: I wasn't sure I got the answer
8 out of you. Do you get higher prices when you sell
9 the market --

10 Mr. COBB: Yes, absolutely. At times there
11 are -- in the last eight weeks, there have been numerous
12 two-tiered markets. So, yes.

13 MR. MACDONALD: Two tiered meaning a premium
14 for volume in a transaction.

15 MR. COBB: Meaning that the market begins at
16 one level and then goes to another level during the week.

17 MR. MACDONALD: You mentioned that -- let me
18 see if we can get others following up as well though
19 because we did have discussion on earlier panels on the
20 volumes and prices. And I'd like to see if other panel
21 members have a view on this.

22 You need a particular threshold or significant
23 volume of cattle to be sold in order to get a price
24 premium -- one of the going premiums in the market.

25 MR. DOMINA: Well, it might be worthwhile to

1 look at the data that the packers report to you. The
2 mandatory price reporting data doesn't indicate that
3 there's any difference per volume, but it indicates a very
4 large packer reported difference from packer-reported data
5 between cash prices paid and non-cash prices paid. From
6 1994 through August 10th of this month, that difference
7 was a little over \$21 a head. That's one of the problems.

8 The other problem is, if the question and the
9 answer don't necessarily match up, the data isn't very
10 good. The first question you asked today was, what is the
11 market level activity that's seen at Friona Industries.
12 And the answer included the word "vertical" and then
13 described the market. I think I'm right that Friona
14 Industries sells 100 percent of its cattle under a
15 contract arrangement to Cargill.

16 And if that's so, there's no bidding for those
17 cattle by those other three packers. So the data has to
18 match the question in order to be meaningful.

19 MR. MACDONALD: I'll give you a chance to
20 respond on that.

21 MR. HERRING: Well, the answer to that, as I
22 mentioned earlier in the comments, it was yes. We do
23 trade our cattle in the formula because we spend a lot of
24 time and effort downstream to acquire the cattle that can
25 perform against today's pricing parameters in the

1 marketplace. So even though the choice select spread is
2 relatively tight now, and there are other little nuances
3 in the marketplace for premiums and discounts. Obviously,
4 we design the cattle to fit the formula and the pricing
5 mechanism that exists in the marketplace at the time.

6 So, yes, we do use the cash market to
7 represent a base price for what comes to us, because we
8 spend a lot of time and effort based on tenderness in our
9 27 critical control points to create a differentiated
10 product for the retailer and consumer. So, yeah, I'm not
11 embarrassed to say I'm chasing a premium every single day.
12 I want the premium. I want my cattle producers that
13 deliver to us -- there's 82 of them across about 28
14 states. I want those people to be well rewarded as well.

15 So, you know, I've heard a lot of commotion
16 here today about vertically aligned production systems,
17 but you're going to hear this afternoon in some comments
18 from producers that are in a vertically aligned production
19 system that it's not that bad. We pay them, and we're in
20 the marketplace 24/7 with premium prices for the cattle
21 that we know will perform.

22 Don't ever let anyone tell you that livestock
23 are the same, because they're not. In our 13-year
24 progress of this branded product scheme that we have now,
25 there's \$400 difference in the cattle from pen to pen any

1 time in the Texas Panhandle. You walk into any pen of
2 cattle in the Texas Panhandle that's traded on a commodity
3 basis, a commodity price cash price, and there's \$400
4 difference.

5 So all we're trying to do is mind those
6 differences. And we have a way to do that and we're proud
7 of that, and people down below us, you guys sitting out
8 here in this room, 650,000 times a year, somebody has a
9 grin, smile on their face, from something that we've done.

10 MR. DOMINA: That's called premium selling.
11 And the reason it's called premium selling is because if a
12 packing plant kills 5,000 head of cattle a day and
13 operates for eight hours a day and operates for 28,800
14 seconds, divide that by 5,000, it takes 5.8 seconds to
15 kill and harvest an animal. And that doesn't allow
16 differentiation in the packing plant. That is premium
17 selling.

18 MR. HERRING: Can I respond to that, too?
19 Here's the real discussion. The USDA spent a lifetime
20 creating a grading system that says to the rest of the
21 world, retail and the consumer, hey, we want you to know
22 the differences in livestock. That's not a bad thing.
23 That's a good thing, because there are differences in
24 livestock. And the GIPSA regulation, as it's written
25 today, would take that methodology, that attempt to

1 differentiate the meat within an animal, and to the
2 producer not allow that. Does that make any sense to any
3 of you sitting out in the room?

4 MR. MACDONALD: Absolutely not. Let me try to
5 hold us off. I still want to stay with the concentration
6 a little bit before we get into arguing over marketing
7 practices. Let me just take a little more time on some of
8 this. As Dave pointed out, a large kill plant today will
9 slaughter about 5,000 cattle a day. I think it's two
10 shifts that will make 5,000.

11 MR. DOMINA: It takes 10 seconds.

12 MR. HERRING: If I go back a little bit --
13 yeah. Two kills.

14 If I go back a little bit further, back when
15 concentration was low, 1980, the top four packers owned
16 about 26 plants. Today the top four packers with a
17 concentration of 80, about the same number of plants.
18 Those plants are a lot larger. We all know that. We
19 didn't have plants killing 5,000 a day in the early '80s.
20 What I want to do is take a little bit of time to talk
21 about something Clem Ward mentioned in the past panel,
22 which is whether there are scale economies and to what
23 extent they are in packing plants.

24 In short, I want to get around to the several
25 drivers that are driving us towards higher concentrations.

1 So I'd like to ask Mark Dopp, Do packers realize any cost
2 or efficiency advantage from these large annual
3 transaction products?

4 MR. DOPP: Thank you, Jim, for allowing me to
5 be here today. The short answer is yes. The data is
6 indisputable, in fact, I heard somebody discuss this issue
7 very recently. And last night, I think it was described
8 as a fairly boring topic to analyze because it's so well
9 founded, so well discussed, and so well proven, that the
10 economies of scale matter very, very much in this
11 business.

12 The data I was given recently and provided
13 recently shows, for example, a plant kills 1.7 million
14 head on an annual basis is 5 percent more efficient than a
15 plant that kills 1.3 million head and 12 percent more
16 efficient than a plant that kills 950,000 head. Now,
17 950,000 head is still a lot. But when you're talking
18 about efficiency on a scale of 12 percent, that's a big
19 number. So the short answer is yes. And it's not
20 surprising, therefore, that companies started looking at
21 ways to become more efficient getting larger to achieve
22 those efficiencies, those economies of scale.

23 Now there is something I would like to talk
24 about for a minute, and I'm not taking issue with your
25 data, Jim, but something that nobody's mentioned all day.

1 Something I hear about a lot is this quote, unquote,
2 increasing concentration. All right. Well, the facts
3 are -- if anybody wants to go to GIPSA Web site and look
4 at the 2009 report, which was published in March of 2010,
5 you will see that for fed cattle, the concentration, the
6 CR4 number, the concentration ratio is at about 80
7 percent. And it's been there since 1995.

8 It hasn't changed more than about a percent.
9 Go to page 45. It's in the report. So this idea that
10 there's increasing concentration in the cattle industry or
11 the fed cattle industry is a bit of a red herring. Now
12 admittedly, it grew from 80 to 95, that's when you move
13 from 30 to 80 percent.

14 But since 1995, that number hasn't moved much
15 at all. In fact, you can talk to some economists who will
16 tell you it's about 70 percent. So, in fact, I looked at
17 the report this morning. For steer and heifer it's 81
18 percent in 1995. In 2008, the most recent data that the
19 agency publishes, it's 79 percent. For fed beef
20 production, 85 percent in 1995. 2008, again, the most
21 recent data they put out, 76 percent. So there is a bit
22 of -- there's some disingenuousness, if that's a word, out
23 there about this increasing concentration. It just hasn't
24 happened, not recently.

25 Now, there are some very good reasons why the

1 concentration is not there. And some people talked about
2 OSHA issues and EPA issues. Let me mention one other
3 because I'm intimately familiar with it. Some of the
4 government regulatory policies that USDA has put out have
5 contributed or fostered that concentration level. And I'm
6 thinking about the food safety policies. I'm the first to
7 tell you that we are all in favor of the most stringent
8 food safety policies out there. But I can tell you as a
9 fact, because I represented them. I represented a company
10 that some of you know in Nebraska that went out of
11 business in 1997 because of an E.coli recall.

12 That recall, that policy, led to at least two
13 other companies leaving the business. I represented those
14 companies. They sold out. They were family-owned
15 operations, and the folks that ran those companies said,
16 I'm not taking the chance of being the next Tyson Foods,
17 so they got out. Those types of things contribute to what
18 everybody calls critical, the concentration issue.

19 MR. MACDONALD: So if I could just jump in
20 briefly and put it in a past tense then. When it became
21 concentrated, do we have a sense of why that happened
22 besides from a scaled economy? Are there other issues
23 involved in the increase of concentration that occurred
24 during the '80s and '90s? And I agree with you, the major
25 structural change in the industry occurred during the '80s

1 and the '90s. Anyone want to take a shot at that?

2 MR. DOPP: I think what was discussed a little
3 bit about the retail sector has contributed somewhat to
4 that. I think the issues there, however, are far more
5 related to the cattle marketing issues which you want to
6 get into. I think the evolution of the retail sector
7 contributed perhaps a little bit.

8 MR. DOMINA: I'll take a shot. First of all,
9 I think the only place you could be employed in the
10 livestock industry and have a sense that the market is
11 unchanged for the last 20 years would be as a lobbyist for
12 the packers.

13 I'll tell you, the second thing I would say is
14 that surely one of the reasons that concentration came to
15 be, continues to be, continues to grow and gets worse is
16 because packers with large plants are able to cut up more
17 pieces of meat by the pound by the hour for the same
18 weightage as if it was a little bit smaller, which creates
19 the marriage between the workers who are here and the
20 producers who are here. We have the same problem.

21 The third thing about concentration is
22 answered with a simple rhetorical question. 64 percent of
23 the deposit assets of the United States of America
24 including its federal treasury are in four banks. If you
25 feel safer about your country because of that, raise your

1 hand. And if you don't, then why would you think your
2 food supply is safer at a higher level of concentration
3 than your money?

4 MR. MACDONALD: What would the concentration
5 level be if the justice department had blocked the most
6 recent GPS merger?

7 MR. DOPP: I think they would be at 80
8 percent. You would have three firms at 80 percent, not
9 four. It's still 80. You're marrying three out of four.
10 If I might make an observation about the food safety
11 comment that was made, you know, I think there's been a
12 lot of meat about that, and I think it's frankly some
13 people need to learn the facts. For example, when E.157H7
14 was written in about 1994, 1993, the incidence rate on
15 products coming out of US federal inspected packing plants
16 was about 1 percent, maybe a little higher. It's now at
17 .1 percent. So to suggest that the packers aren't doing a
18 good job at dealing with E.coli issue, I think it's just
19 not true.

20 MR. COBB: Jim, could I comment one time on
21 concentration?

22 MR. MACDONALD: Sure. I need to get somebody
23 from that side.

24 MR. COBB: The numbers on concentration, they
25 are what they are. But the reality is that on a regional

1 basis, because of the concentration, it allows for market
2 power. And then because of procurement practices, that
3 creates lack of competition.

4 MR. MACDONALD: Get us to the last question on
5 the last section of concentration. I'll just put it
6 straight. Since Bob brought it up, suppose a merger had
7 gone through and an we had one less buyer, let me throw it
8 out and ask prices have gone up, what would the effect of
9 fewer bidders, one fewer bidder, no matter what we're
10 starting from, bid on prices? I'll let Dave start with
11 that one.

12 MR. DOMINA: Well, if you're only getting one
13 bidder, the price goes down, the price goes down because
14 you get none. I think that Bruce is right that there are
15 huge sectors of their industry. You know them, you've
16 lived them, you've experienced them, where feedyards are
17 getting one bid, one bidder. They only get one person who
18 calls on them from one company. They sell their cattle to
19 one place, whether they're in the cash market or not, and
20 that's because they have one opportunity. It's not just
21 four-firm concentration in the industry nationwide. It's
22 sort of like politics. All cattle selling is local. And
23 if you don't have somebody calling on your yard, you're
24 not selling your cattle.

25 I hear twos and threes, but when you hear it

1 from people using formula sales, you wonder why, if
2 there's such a vibrant market. I think Bruce has got it
3 exactly right. Concentration cannot get worse than one
4 except to go to zero.

5 MR. MACDONALD: Let me put it then to the two
6 of you. Had that merger gone through, would there have
7 been no effect on price since everybody already faced just
8 one?

9 MR. COBB: I think it would have been a
10 dramatic price had the merger gone through, because rather
11 than the few weeks that we have right now with product
12 competition, we would have even fewer weeks of product
13 competition.

14 MR. MACDONALD: Okay. So your issue is you
15 would have had more weeks in which you would have single
16 buyer?

17 MR. COBB: Yes.

18 MR. MACDONALD: Anybody else want to take a
19 shot at that?

20 MR. MACK: I agree with everything he said.
21 But at the same token, I think part of the problem with
22 concentration is that historically cattle have been fed
23 where they can be fed the most efficiently and for the
24 least money. And right now you've got the packing
25 influences in the South where you've got some huge

1 feedlots. The unfortunate thing is things in -- or have
2 changed with feed prices and things like this, ethanol
3 production and other things.

4 And cattle can be produced cheaper once again
5 in the Corn Belt, especially the western corn belt than
6 they can on the High Plains. Shipping costs, irrigation
7 costs, a lot of these things are factored in. But the
8 influence of the packers over these large lots, they've
9 been kind of joined at the hip and actually magnified the
10 effect of that concentration.

11 MR. MACDONALD: You brought that up to me in
12 earlier conversation, and I want to see if we've got other
13 people saying the same thing. I understand you believe
14 there is a fundamental change in the economics of feeding
15 that starts to favor more corn belt and Northern Plains
16 operations; is that right?

17 MR. MACK: Initially cattle feeding was done
18 in the Corn Belt; when irrigation opened up in High Plains
19 and you had a huge supply of feeder cattle and you could
20 raise lots of corn very inexpensively. Cattle feeding
21 naturally followed. Packers don't -- packing plants,
22 their big feedlots went in there.

23 Historically, now if you go and take USDA
24 numbers and track the corn prices in eastern Dakotas,
25 North Dakota, Minnesota, Iowa, Nebraska, compare them to

1 the Texas Panhandle, then add in ethanol byproducts, soy
2 bean byproducts, storage costs, the availability to high
3 quality, northern plains feeder cattle and everything
4 else, historically cattle feeding should be moving back to
5 the north. The packers should be moving back to the
6 north, and things like this, but you're not going to see
7 it because you've got huge feedlots down there joined at
8 the hips with the packers. They could care less about how
9 inexpensively beef can be raised, so the consumer can go
10 and get a better buy so the feeder cattle producer can go
11 and get more for his calf. All they're concerned about is
12 to get more control of that market.

13 MR. MACDONALD: Any other reactions on that?
14 Does anybody else see that economics are changing? Bill,
15 yeah. Bob Miller, I'm sorry.

16 MR. MILLER: I'm probably one of the older
17 ones in here and I've seen an awful lot of changes from
18 the time we loaded cattle on the road; 15, 20 miles to the
19 railroad to load them and take them to Kansas City. And
20 they would be steers three or four years old that weighed
21 from 12 to 1,500 pounds off grass. And then the people
22 that raise corn in Iowa and Illinois and Kansas and
23 Missouri all bought those cattle and fed them a little bit
24 and killed them.

25 And so we've seen the markets, as Bob said,

1 change from Chicago, Kansas City, where we even had two
2 packing companies in Oklahoma City. And so the fat cattle
3 there, we've seen all that change to the Panhandle of
4 Texas and Oklahoma.

5 And it has caused concentration, and it has
6 put a lot of people in a bind in different places. And
7 it's kind of where you're looking from. And it's kind of
8 like the two old maids that live together and they called
9 the police and said there's a man next door that's
10 indecently exposed. Would you hurry up here. Come up
11 here and arrest him. So the police got up there and
12 looked across the alley and said, Well, he's just -- I can
13 see him but just from the waist up. She said, Well, get
14 up here on this table.

15 So it's kind of where you are in this program.
16 And you have to be in somebody else's shoes to really see
17 what their situation is. I can't see that concentration
18 is a good thing. But we have to agree that the packers
19 and the feeders, for that matter, are much more efficient.
20 When one company owns the cattle, the feed, the feedyard
21 and packing house, to the ordinary cowboy, it looks bad.

22 MR. MACDONALD: With that, let's -- that gives
23 us a nice introduction to talk about cattle marketing
24 issues, something we've been coming back to all through
25 the day. Before I get there, though, let me remind you of

1 something I should have said right at the beginning, which
2 is we have these volunteers in green shirts, Colorado
3 State students, going up and down the aisles. They've got
4 some pencils and notepads. They're using those notepads,
5 I see, to fan themselves, which is probably a good idea.

6 If you have questions you would like to have
7 the panel address, give a nod to one of our volunteers.
8 They'll give you a piece of paper. You pass it back to
9 them, and they'll -- I've got a couple coming right now I
10 can take a look at. And we can look and see if we can
11 work them in.

12 While they're there, though, while you're
13 doing that, let me shift on to talking a little bit about
14 alternative market arrangements and cash market volumes.
15 And I'd like to ask Bill Rishel -- I know you've been
16 involved in Angus programs for many years. I'd like to
17 get your sense of why we're seeing shifts to alternative
18 marketing arrangements and declines in cash market sales.

19 MR. RISHEL: Jim, I hope you'll bear with me
20 here if I could make one statement before I get to that.
21 There's been a lot of different opinions offered in this
22 room today about a lot of different issues. And I'd like
23 to offer one that's been touched on by several people
24 earlier in the day and some folks who spoke at the
25 microphone.

1 My biggest disappointment of this event was
2 the fact that the first panel of the day up here, which
3 included the secretary of ag and the attorney general,
4 state's attorney general, assistant attorney generals, and
5 commissioner of agriculture, and talking about
6 sustainability of this industry and bringing young people
7 back.

8 And the bottom line is that the death tax
9 which will revert back to 2001 on midnight of December
10 31st this year, if something isn't done about it, will be
11 the most devastating thing to this industry and the
12 advancement of operations in bringing young people back.
13 And I would implore everybody -- I would implore everyone
14 in this room to contact your congressman, your
15 congresswoman, the folks that were at this table earlier
16 today, they have power in this administration and that is
17 how we start the process of maintaining the farms and
18 ranches in this country and bring them back. Thanks, Jim,
19 for letting me do that.

20 My family and I are just a simple family
21 operation. My wife and I, we raised three kids. They're
22 all grown and have moved on. Our daughters married guys
23 that were extremely good athletes, didn't have necessarily
24 an ag background. And I jokingly say -- I love them all,
25 but I jokingly say, There's not a damn good cowman in the

1 whole bunch of them.

2 And I seriously -- they're great folks and I'm
3 tickled to death. But what we did was primarily when they
4 were young and my wife and I was struggling to make this
5 thing happen, we did not inherit a place. We developed
6 this on our own. My love has always been in the
7 registered Angus business, the seed stock business. It's
8 always been about developing genetics.

9 And I can tell you that only about one other
10 time today did I hear anybody talk about beef demand. And
11 for some reason, a lot of people in our industry do not
12 believe that beef demand has anything to do with this
13 process. And I think it has everything to do with the
14 pricing and value of our cattle.

15 That beef demand, if some of you really looked
16 at this, from 1980 to 1998, was cut absolutely in half.
17 Had that kept going in the direction it was going, we
18 could have been addressing an industry at some point here
19 that would have been similar to the young fellow that was
20 on the end of the earlier panel in the sheep business, an
21 industry that has almost disappeared off the face of the
22 earth in this country.

23 There's still in areas some of them being very
24 successful with it. But the bottom line was, there was
25 not a great promotional program in that or an added value

1 kind of a program, and they just -- they just dwindled in
2 numbers dramatically over time.

3 I see similarities in the beef industry. And
4 what we did was from a genetic standpoint in developing
5 the kind of genetics that we thought our customers could
6 use to improve the genetic value and therefore the
7 economic merit of their cattle was structured on
8 evaluation work. Because those traits were so highly
9 inheritable that we knew that our customers could
10 certainly make these cattle better than the average.

11 I don't -- whether the cash market was 80
12 percent or whether it's 50 percent, and I don't know
13 anybody smart enough to say what is an ideal cash market
14 or an ideal balance. But I will say this: The cash
15 market is an average of the cattle, and they're going to
16 buy those cattle to arrange where they're pretty sure that
17 the upper end of that lot of cattle or group of cattle
18 will be good enough to be able to be pieced out into the
19 industry to cover the cattle that aren't as good.

20 A lot of what I have to say about this has
21 been repeated here earlier today because there's been so
22 many folks to talk about it. But I do want to talk
23 about -- we heard about certified Angus beef. It started
24 out in 1978, struggled like all get-out. For about a
25 six-month period, the USDA actually shut the program down.

1 They finally got it back on track. And then
2 early 1980s, they sold their first million pounds of beef.
3 It's projected on September 30th of 2010 that the
4 certified Angus beef program will sell 785 million pounds
5 of product. And I do believe that nearly everyone in this
6 room that's a cow-calf person, and I am one, has at some
7 point experienced some value from that program.

8 It has increased the price of cattle. The
9 facts and the data pretty well substantiate that. And any
10 of these economists, I can certainly provide that
11 information. So that's one example. And that 785 million
12 pounds is 18 percent above 2009. And I don't know about
13 you, but S&P doesn't do 18 percent. And the DOW didn't do
14 it, and I don't know anything else that did, but that did
15 because there's consumer demand that pulled that product
16 through that system because of the palatability and the
17 value of the taste and consistency. It met the target.
18 It hits the target for what is very, very salable.

19 We know, and it was said earlier, that there
20 are these huge differences, easily \$100 between the high
21 and the valued animal on a lot. We see 200, 300 and many
22 things up to 400 bucks. It can go higher, but I'm not
23 talking about extremes here. I'm talking about what you
24 see every day. So we looked at trying to get involved in
25 value-added programs and help our customers get more money

1 for their cattle. And that's exactly what we were able to
2 accomplish.

3 These cattle, because of those highly
4 inheritable traits, they can do these things, become
5 involved in these programs. And what really concerns me
6 for a lot of my customers, they're not on the same
7 program. We have some U.S. premium, we have some using a
8 grid in other markets and other places.

9 The idea is that they have lots of options.
10 And these programs are not only helping their bottom line
11 and helping their profitability, but I see young people
12 coming back into these operations. When I've made trips
13 to affiliate meetings this spring, I've seen quite a few
14 young people. I didn't expect that. But I see them
15 coming back because I think they're learning how to manage
16 their inventory. They're learning how to manage their
17 risk, and obviously they're bigger operations. They have
18 to be. There's more families involved when they come
19 back.

20 So there's some fundamentals here that we
21 can't forget. I don't want to take up a lot of time on
22 this. I think I gave you some background on why we did
23 it, what we see. I can tell you that the value per head
24 over the cash market in these programs -- many of our
25 customers doing it are doing it very consistently. On the

1 conservative side, 40 to 50 bucks, many on 70 to 80,
2 occasionally better than 100 bucks a head over the cash
3 market.

4 We've seen it -- the numbers were mentioned to
5 you earlier. These folks I'm talking about are small to
6 average size producers. I think by most standards would
7 really be considered small. So these programs are very
8 essential. And as a unit holder in U.S. Premium Beef,
9 does that make me or my customers a packer because U.S.
10 Premium Beef does own a share of national beef? So if
11 we're a packer, it destroys programs that were absolutely
12 essential to these folks that I think are in a better
13 financial position and doing a better job in terms of the
14 way their banker would look at their operation.

15 I've seen it. I've seen the success in what
16 they've been able to accomplish with it. So that's one
17 thing. And also with those type of programs, there's an
18 annual commitment of a certain percent of those units.
19 Two U.S. Premium Beef, for example. Well, obviously
20 that's more than 14 days out. Would that not be permitted
21 anymore by these proposed GIPSA rules.

22 So you have those situations. And then I
23 don't want the opportunity taken away from me if I commit
24 some cattle to U.S. premium not to be able to commit other
25 cattle in the cash market or any other marketing

1 arrangements I would like to have. Thank you.

2 MR. MACDONALD: Let me follow up, particularly
3 on behalf of my crowd of suits over here who may not
4 understand the markets as well. Do we need marketing
5 agreements for the types of value-added programs that
6 you're talking about or can the same goals be arranged
7 through cash markets?

8 MR. RISHEL: I don't see it happening in the
9 cash market. It didn't happen before. I could say that
10 on occasions in a cash market over the many, many years,
11 you might on a situation have a particular instance where
12 a buyer for a packer might have some prior history on a
13 set of cattle, and, therefore, might bid just a touch more
14 because he thinks that they'll probably do the same thing
15 again.

16 But I will guarantee you, it's still a guess.
17 I think I've got a pretty good eye for livestock. And
18 when you look at confirmation, a lot of people out here
19 are the same way. And you think about the muscle that's
20 in them, the retail product. But you're not really going
21 to know that marbeling that's in there, the quality grade
22 that creates the value. And it's not the appeal that you
23 really are able to figure or know what the real value of
24 those individuals are.

25 And the business that I've spent the last 25

1 years in, and many of our customers, is a business of not
2 price discovery, it's value discovery.

3 MR. MACDONALD: Let me get to the rest of the
4 panel. Do cash markets give appropriate quality
5 incentives?

6 MR. COBB: Our experience with CDP is that
7 we're not only a live calf seller. We market a lot of
8 volume on negotiated grids and on a risk basis as well.
9 So I think when we start talking about premiums, you've
10 also got to consider discounts. Let's set that aside for
11 a second. The base price generates at least 90 percent of
12 the value of the cattle, folks, 90 percent. We have to
13 spend more time focused on that 90 percent. Yes, let's go
14 satisfy consumer demand and be market driven and deliver
15 high quality product for our customers here and around the
16 world, but we have to also consider that procurement
17 behavior region by region that affects the base price --
18 and real quick, look what's happening, look what is
19 happening right now region by region as it relates to
20 non-negotiated volumes.

21 In Texas, right now we're running at about 71,
22 72 percent of the fed cattle market marketed on a
23 non-negotiated basis. In Colorado -- folks in Colorado,
24 it's a problem. It's 80 percent right now. Kansas is 63
25 percent. Those numbers relate directly to the value of

1 the base price whether you're negotiating in the open
2 market or the base price of non-negotiated cattle.

3 MR. MACDONALD: We still want to focus in a
4 bit on price discovery and base price and manipulation of
5 base price issues. But I do want to get some focus in
6 here on whether we can get appropriate quality incentive
7 in cash markets. And I'd like to see if we have anybody
8 else.

9 MR. HERRING: Let me add just one other thing.
10 People who sell in the cash market want the risk of
11 ownership to stop at the gate. And that's a choice that
12 they make. The folks who don't mind and are trustful of
13 the packers' ability to break that animal up and value the
14 carcass and send them something back do it another way.
15 And just so everybody knows, it's a transfer of risk
16 question as well.

17 MR. MACDONALD: Jim.

18 MR. RISHEL: Could I jump back in? Because I
19 agree with what Bruce said down there when he said
20 discounts in the marketplace. And I'm here to tell you
21 that those of us that are involved in these kind of
22 programs accepted the risk in the marketplace in the form
23 of discounts for the premiums that were available for the
24 right kind of cattle. And they're huge premiums and
25 they're very, very worthwhile.

1 So you're absolutely right, there are
2 discounts and there are premiums, and that's exactly why
3 the cash market ends up being an average of the
4 population, because they make the premiums in a lot of
5 cattle cover the discounts.

6 So we're not -- we wouldn't disagree at all on
7 that. And that is part of the deal, that we believe
8 enough in the cattle, the genetics, and the way it repeats
9 itself. And it does, it works. We're willing to take
10 that risk.

11 MR. MACK: The only problem with a lot of the
12 grids and a lot of the premium structured bids is that
13 there is twice as much of a discount as there is a premium
14 offered. And it ain't all up to the packers. Some of
15 it's up to the grader and things like that.

16 One of the things with price discovery if the
17 packers would choose -- they were told this years ago
18 already. If you go and pay for meat based on what that
19 meat brought at the wholesale price level, you'd have true
20 price discovery, and they'd still be able to make their
21 margin, and the producer would get paid for the quality
22 that he produced.

23 MR. RISHEL: And now I ask you, it's very
24 possible that the wholesale choice box beef price and the
25 retail case price could eventually determine the price --

1 the cash price of cattle?

2 MR. MACK: They've told us that for 15 years.
3 Rosemary Muckle (phonetic) told me 12 years ago or
4 whatever, never going to happen. I don't know.

5 MR. MACDONALD: Let me jump right in while
6 we're on that topic, because I remember hearing earlier, I
7 believe James Herring, you told me that your base price
8 was cash basis; is that right?

9 MR. HERRING: Sure. Most of these formulas
10 are based off the cash, but that's not the only way it can
11 be done.

12 MR. MACDONALD: I mean, do you see a shift
13 towards --

14 MR. HERRING: I see that if the cash market
15 becomes an irrelevant price and everybody on formula is
16 very attentive to that, our antenna is 10 feet tall on the
17 cash issue. If it does not convey appropriate value, then
18 nobody in the formula business is going to stand for that,
19 and we'll find a better way. Our differentiation up here
20 on this panel is we don't believe it's the government's
21 job to do that; we believe it's the industry's job to do
22 that. Simple as that.

23 MR. DOMINA: I'm not sure there's a
24 disagreement about that point. The question is: Why
25 won't the packers establish the price in a visible market

1 so you can see the bidding happen? Why isn't it
2 transparent, and why isn't that transparency voluntary?

3 And if it's voluntary, it doesn't take regulation.
4 Why is it always reported strictly as history?

5 MR. DOPP: Well, I think one of the reasons
6 is, and we heard it earlier from several people, willing
7 buyer, willing seller, be a private transaction. This is
8 not the government's role.

9 MR. DOMINA: There's nothing more private and
10 nothing more public and nothing more fun than an auction
11 with an auctioneer, and that's the way this business grew
12 up, and that's the way this business works best. Those
13 are private treaties. And the only reason it doesn't
14 happen that way now is the packer does not want to expose
15 the packer's bid. It's not got anything to do with the
16 government. That point is fundamentally incorrect.

17 MR. MACK: If you've got that one bid there,
18 you're a seller. Many times I wouldn't call you willing.
19 I mean, it's almost like having to do it with a gun to
20 your head.

21 MR. RISHEL: Jim, I might jump in here if I
22 could. I want to put a pitch in for the Big Red,
23 Nebraska. We talked about -- yeah, there's at least one
24 more out there. We talked about the value of mandatory
25 price reporting, and we believe in that. We're all over

1 that. We think it's very important. We'd like to see it
2 used, looked at, studied all the time, tickled it's being
3 renewed.

4 But we've taken it one step further when these
5 folks talk about not knowing what the packers are bidding.
6 I want to share with you the example of cattlemen taking
7 care of their own business. And in Nebraska, our Nebraska
8 cattlemen have a mandatory or market reporting service
9 that people can join. Maybe you guys ought to move to
10 Nebraska and join this thing. And it is a
11 minute-by-minute daily update of the bids in the
12 marketplace.

13 This is a case of us taking care of our own
14 business, creating systems that add value to what we do,
15 and we're talking here about whether they're cash, whether
16 they had a source-in-age on it, whatever the value was,
17 what the weight, steers, heifers, whatever. It's a
18 marketing reporting service that we have, and we're very
19 proud of it. And it's a way that we help those producers
20 in our country.

21 MR. MACDONALD: Let me shift just slightly
22 because I really need to bring Charlie Rogers into this,
23 who seems reluctant to argue with everybody else on the
24 panel.

25 Charlie, your business involves auction sales

1 of horses, cows, feeder calves. These fundamental changes
2 that we've talked about in the meat packing and fed cattle
3 business and price back to cow-calf, do you see that
4 affecting your business and markets in the southwest?

5 MR. ROGERS: Well, actually, you know, we
6 can -- we could take it to that level. We're not -- I
7 don't know that we're there yet. But if we continue to
8 see the cash market dwindle, it will have a dwindle-down
9 effect into the feeder market and down into the calf
10 market, yes.

11 MR. MACDONALD: We spent a little -- we've
12 touched over several times here on price discovery. It
13 shifted a little bit towards spending effects of the
14 shift. Let me start a related issue with Bob Miller. And
15 that is, with small number of packers and people still
16 pricing off the cash market, are you concerned with
17 manipulation of cash market prices that may, therefore,
18 affect contract prices if they're based off the cash
19 market?

20 MR. MILLER: Bob Miller or Bob Mack?

21 MR. MACDONALD: Bob Miller. It says on my
22 list.

23 MR. MILLER: I would think it would have some
24 effect. I'm not really -- I can't answer that really
25 intelligently, but I would think it would, yes.

1 MR. MACDONALD: How about that, Bob?

2 MR. MACK: There's a lot of incentive to do
3 it. If you've heard most of these formula programs, most
4 of value-based programs, all go in and are based on that
5 cash price, so there's a tremendous incentive. Everybody
6 can talk about premiums in these programs, but the big
7 question is, how is the base price established before you
8 start adding premiums. Because I've worked with guys on
9 this, and sometimes, you know, it's questionable because
10 if the base price isn't a realistic one, the premium
11 that's quoted isn't a realistic one.

12 So there's a tremendous amount of incentive to
13 go and manipulate that price because of the effect it has
14 on other transactions when you have a thin market. That's
15 why hopefully when the Big Red go out on the field
16 Saturday they've got referees on the field. It would be
17 nice if USDA would come in and provide some referees for
18 this cattle market.

19 MR. DOPP: One observation, it seems to me the
20 referees are there. Again, if you go back and look at the
21 most recent GIPSA report, there's an extensive discussion
22 about this very elaborate reporting program, pricing
23 analysis program, for lack of a better term, where they go
24 into great detail about how they analyze virtually every
25 transaction on a weekly basis. If there is some anomaly

1 in their view, they investigate it. So I would suggest
2 the referees are there and they're doing their jobs. They
3 have not found anything.

4 MR. COBB: Jim, can I comment, please? When
5 you're talking about a thin cash market, it really is
6 quite simple, and it's -- you go to the seller who at that
7 point in time is the most distressed. And that's the way
8 it has been functioning in many areas. And, again, it's
9 not unique to the cattle industry.

10 But if you have a distressed seller and that
11 distressed seller is offering a very thin market. That
12 distressed seller sets the price for the entire market.

13 MR. MACK: One of the problems when it comes
14 to the refereeing, if you look at these court cases,
15 juries have said there's been harm done. I mean, they
16 become the referees. The judges have come in and
17 overturned it because they said it didn't affect everybody
18 in the market. That being the case, if you were a
19 prosecutor out there and somebody murdered someone else,
20 you'd say, I can't prosecute him, didn't have any effect
21 on everybody else. It just -- only one it hurt is him.
22 So let him go. And without this clarification, that's
23 what we've got.

24 MR. MACDONALD: Want to go?

25 MR. DOPP: Sure. Well, as a starting point,

1 we have fundamentally different statutes here. That's one
2 point. And let's face it, that's the elephant in the
3 room, right, the GIPSA rule. And some people have alluded
4 to it already, you know. On level you're right, Bob,
5 eight different federal appellate circuit courts have said
6 this is the standard. They've looked at it carefully.
7 They've analyzed it. I know people up here aren't going
8 to agree with me, but that's what they've concluded. And
9 the fact of the matter is the way the system works, the
10 statute is what it is. It's been interpreted by all these
11 courts. The most recent ruling was on May 10, 2010, the
12 tide has become a tidal wave, to quote the 6th circuit.
13 It's well-settled law.

14 If people don't like the statute, that's fine,
15 but let's have that debate not through some bureaucratic
16 feat, but let's have that debate in the halls of congress
17 where it belongs.

18 MR. DOMINA: We've now found a place where I
19 can agree with Mr. Dopp, and that is that the GIPSA rules
20 are not the focus of this meeting. This meeting was
21 scheduled a year in advance of release of those rules.
22 The statute about which we are talking was passed 89 years
23 before those rules. The statute fell into disuse. And
24 any law that falls into disuse is just like a dam in an
25 aggressive stream that you don't tend to. If you don't

1 tend to the dam and take care of it, it gets washed away.
2 That's what's happened here.

3 On May 10th, in the Terry case, the 6th
4 circuit decided that because one poultry producer insisted
5 that he be permitted to be present at a Tyson plant to
6 watch the birds he was delivering be weighed, which is his
7 precise right under the regulations. He was scheduled for
8 that weighing at 2:00 a.m. twice, and they couldn't reach
9 his birds. So they got weighed without him. And he filed
10 suit and the United States Department of Agriculture, and
11 the Grain Inspection Packers and Stockyards Administration
12 supported the producer in the case. And the Sixth Circuit
13 said, Because weighing your birds didn't affect the whole
14 market, the statute doesn't apply to you.

15 Now, here's where I agree with Mr. Dopp. The
16 rules that are going to be debated at another meeting are
17 an attempt to reinvigorate the statute, but they are not a
18 statute. There has to be a statute. The problem for the
19 producers who need a stronger statute is the packers have
20 lobbyists.

21 MR. DOPP: So do the producers, David. I work
22 with -- you do, too.

23 MR. DOMINA: No, I don't. I'll make that
24 clear. I don't.

25 MR. DOPP: To ignore the fact the rule's out

1 there in this context is, I think, a bit -- you know, I'll
2 leave it at that. But the fact of the matter is, again,
3 this is an exercise that we are troubled by. We don't
4 think it's within the purview of the Department of
5 Agriculture to try and overturn long-standing judicial
6 precedent, and we will take issue with that, and we think
7 it's inappropriate.

8 MR. MACDONALD: Let me bring us to another
9 sensitive issue.

10 MR. DOPP: May I add something?

11 MR. MACDONALD: Sure.

12 MR. DOPP: If I recall correctly, the
13 secretary said this morning comments about the GIPSA rule
14 would be part of the record for the rule making, so I
15 think the GIPSA rule is very much in play in this setting.

16 MR. MACDONALD: Sure. Let me bring it to
17 packer ownership of cattle. Since 1999, according to
18 GIPSA data I see, packer-owned cattle accounted for 5
19 percent of fed cattle volumes. Now, we've heard allusions
20 to packer ownership of cattle throughout the day. Let me
21 throw this out to the panel. I'll start with a straight
22 question. You think packer ownership affects competition
23 and pricing in cash markets or marketing agreements? And
24 if it does, tell me how. Anyone want to take that?

25 MR. COBB: Can I start briefly? I think we

1 need to look at the total body and not negotiate supplies
2 and not just one method. It's a combination of all
3 non-negotiated supplies, whether it's the formulated
4 arrangements before contracting or the packer owned.
5 Those are the tools that are used in an attempt to reduce
6 the competition in the marketplace.

7 MR. HERRING: We contract to producers just
8 like you all sitting in the audience, as much as 12 months
9 in advance. I've said publicly we've contracted cattle
10 that haven't even been born yet because our database
11 allows us to understand what a producer actually has and
12 produce it.

13 So we're a little nervous that the contractual
14 part of these regulations may impact some of our business
15 downstream. Obviously, for us, for our company, the
16 ability to assure supply is a solution that we've passed
17 forward to the packer and to the retailer. And those two
18 entities consider that a benefit, particularly with the
19 kind of cattle that we produce.

20 So when you say "contract," I think all of us
21 need to be careful, because that's a -- that's a very
22 valid way to reduce risk in any operation, cow-calf,
23 stocker, feedlot, et cetera. And we would be very nervous
24 about impacts to contracting forward supply.

25 MR. DOMINA: Jim, could I very briefly -- this

1 morning one of the panelists observed that in the 5
2 percent of the hog market that has traded in cash,
3 approximately half of the cash trades are packer to
4 packer. Now, if that trading is open and transparent and
5 everybody can see it, that may be acceptable. But if it's
6 not, it's unacceptable and drives the price down, and
7 that's a risk to the cattle producers, too.

8 MR. MACDONALD: All right. I've got a little
9 over four o'clock, which is the time we were scheduled to
10 end. I think our panel has done a nice job of keeping
11 everybody alert and cheering one side and the other
12 through this near the end of a long day. So I'd like you
13 to give a hand to our panelists for coming.

14 (A recess was taken from 4:03 p.m. until
15 4:19 p.m.)

16 MR. FERRELL: Let's go ahead and get started
17 right now for the second public testimony period of today.
18 Just a couple of quick comments before we go ahead and get
19 started, if you could go ahead and take your seats.

20 This will be the second opportunity to provide
21 comments. For the folks who were at the public testimony
22 who had been lined up at the microphones before and had
23 their numbers up on the screen already identified, if you
24 could -- if you-all could go ahead and come up to the
25 microphones and we'll -- we'll pick it up where we left

1 off. And then when we get those individuals completed,
2 we'll change up the screen with new numbers. And then
3 you'll look to see whether your number is up there and we
4 can go ahead and get started then.

5 I just want to say that we -- in addition to
6 the opportunities to provide a comment right now, we also
7 have four computers -- stations that are set up in -- just
8 outside this room and also in the -- in the other large
9 rooms that were the spillover rooms. And if you didn't
10 want to wait to provide a comment, then go ahead and go to
11 the computer and just submit your comment. We have
12 volunteers around with green shirts, and they can help you
13 provide that, if needed.

14 So with that, why don't we go ahead and get
15 started. I do ask for your cooperation, though. We've
16 got a large number of people who want to provide comments.
17 And the only way -- we're not going to be able to
18 accommodate everybody. But we want to make an effort to
19 accommodate as many people as we can. And to do that,
20 we've got to have you limiting your comments at two
21 minutes each. And -- because for every person who runs
22 over a little bit, that's someone else who didn't get to
23 provide a comment. So please limit your comments to two
24 minutes.

25 And for that -- if individuals could take

1 their comments -- or if you're making those side
2 conversations, if you could take those out in the hallway,
3 so everyone can hear people at the microphone. So with
4 that, we'll go ahead and get started over here.

5 MS. MUCKLOW: My name is Rosemary Mucklow.
6 I'm the director emeritus of National Meat Association.
7 I've been in the industry for almost half a century. I'm
8 78. I want to tell you that the greatest successes I have
9 observed over that time have occurred where there have
10 been partnerships between producers and packers. Those
11 partnerships have led to better products and expanded
12 sales to consumers, our most important customers.

13 In the '60s, livestock and meat industry went
14 through huge structural changes that were the death knell
15 for those large old stockyards and slaughter plants close
16 to metropolitan areas. The old facilities were replaced
17 by slaughter and processing facilities in the countryside
18 that produced chilled vacuum-packed cuts of beef, pork,
19 and lamb, extending the shelf life from less than ten days
20 for swinging carcasses to an astonishing three to four
21 weeks.

22 Livestock producers were no longer nameless
23 individuals whose animals were dispatched on a truck to a
24 market and sold on the average to a nameless buyer
25 representing on old-line packer. Because new packing

1 plants were in rural areas, producers began partnering
2 with packers to provide specific characteristics and
3 livestock traits which would then provide marketing
4 advantages all the way to the retail store and the table.
5 These partnering programs led to dedicated branded
6 programs, such as certified Angus beef and parallel legal
7 programs for pork and lamb. They helped families prepare
8 meals quickly.

9 Over the 50 years, I've had a ring-side seat
10 watching history being made. I've seen producers and
11 packers working together in partnerships, using contracts
12 that ensure each could make a reasonable living in the
13 very competitive industry. Together they've done a superb
14 job meeting the expectations of the consumer at the retail
15 store and in the restaurant.

16 I'm especially proud of how NMA members, large
17 and small, have partnered with producers to develop
18 programs. And I suggest to you this has resulted in the
19 organic, never-ever, source-verified, grass-fed and
20 others. We're proud to have as members people like
21 Laura's Lean, Buyer Natural, Niman Ranch, Morgan Ranch,
22 Tall Grass Beef, Panorama Beef, Maverick Ranch, Coleman
23 Natural, Carlton Farms --

24 MR. STALLINGS: If you could finish up.

25 MS. MASKLOW: -- Creek Stone and the lot. The

1 greatest successes that I have observed have been with
2 partnerships between producers and packers. Let's build
3 on the success of the partnerships in expanding consumer
4 demand for red meat.

5 MR. STALLINGS: Okay. Thank you very much.

6 MS. MASKLOW: And if anyone would like a copy,
7 come to me.

8 MR. SMINK (phonetic): My name is Jeff Smink.
9 And I'm the fourth generation to live on and operate my
10 family's farm and ranch in Western South Dakota. We are
11 predominantly a cow-calf operation. Today, you've heard
12 comments from individuals who are in favor of GIPSA's
13 proposed rule. I respectfully disagree with these
14 individuals.

15 For the last several years, our calves have
16 been marketed by using a grid system. At times, the
17 spread between select- and prime-graded carcasses has been
18 as much as \$450 a head, and the grid has outpaced the cash
19 market by as much as \$200 per head. We have to pay
20 serious attention to breeding our livestock and
21 continually improving carcass yields and grades. For the
22 small producer like me, the grid system for marketing
23 cattle offers an opportunity to manage my risk in addition
24 to the highest returns and the best opportunity for
25 profitability.

1 If this proposed rule is adopted, I fear that
2 our ability to market our livestock on the grid could
3 disappear and that this unintended consequence would hurt
4 most of all the small producer who has been striving to
5 improve the herd and offer a superior product. Let me
6 explain. I believe that by amending Section 201.94 and
7 requiring packers to maintain written records that provide
8 justification for differential pricing or any deviation
9 from the standard price is an attempt to open the door for
10 litigation against our packing industry. Instead of
11 subjecting themselves to this risk, I believe packers will
12 offer one low commodity price for all cattle, thus
13 avoiding the endless lawsuits.

14 The unintended consequence would be the
15 disappearance of the grid system and the premiums received
16 by progressive minor producers. If this proposed rule is
17 adopted, I fear it will lower the price of better
18 performing cattle to the level of basic commodity cattle.
19 Please, for the sake of my children who represent the
20 fifth generation of our operation, do not fence in their
21 future by severely limiting their options for
22 profitability. Thank you for listening.

23 MR. WALDNER: Hello, everybody. My name is
24 Jake Waldner. I'm from Heartland Colony, vice president
25 and director of Montana Hallmark Association, Montana Pork

1 Producers Association.

2 In my part of Montana, pork producers and
3 production is small by some comparison. Producers are
4 spread out and market opportunities are limited. It is
5 extremely important that we work together in groups and
6 make arrangements with and for transportation by our
7 harvest partners. To move pigs 1,300 miles is essentially
8 impossible. Full loads and full value of pigs are
9 important. 8,000 people depend on our ability to
10 negotiate together and make marketing agreements. 55
11 percent of our income is from pigs.

12 Our lenders depend on us to be involved, to
13 help our pork operation keep our financing. Eliminating
14 this business totally eliminates pork production in our
15 area. We are concerned that the proposed rule GIPSA has
16 out for commencement will reduce opportunities and then
17 help -- and would not help the producer and will hurt the
18 producer. This GIPSA rule will not help to pig
19 improvement in Montana. Thank you.

20 MR. MINOR: Good afternoon and thank you for
21 this opportunity to speak. My name is Casey Minor. I'm a
22 third-generation registered Angus breeder from Sioux
23 County, North Dakota. And speaking on behalf of the North
24 Dakota's Stockmens' Association, we're 2,800 members
25 across the great state of North Dakota. We're 81 years

1 old. And as the stockmen's trade organization, we are in
2 full support of the concept of GIPSA. However, we have
3 some concerns about the vague language that exists in it.

4 If you will, picture this whole industry as
5 one big game. We believe the government should not be a
6 player in the game. However, they should be more of a
7 referee. And if they're going to blow the whistle and
8 call a foul on somebody, we have concerns about the GIPSA
9 being the rule book they go to. We do believe there is --
10 they have to have some intervention somewhere and they
11 have to step in. But we do have concerns about the vague
12 language in the rule book, as a lot of others do here
13 today.

14 But the overall concept, we do support the --
15 support of transparency and more competition in our
16 markets. We also have concerns of the unintended
17 consequences, so to speak, in some of the language. One
18 example we'd like to show is that we're buyers buying for
19 one packer.

20 In the Upper Midwest, the fall run of cows,
21 they could have 1,000 cows at one particular auction barn.
22 And there might be two or three order buyers there to
23 place them cows. And if that order buyer has the
24 opportunity to buy it for only one packer, that takes them
25 out of market. We don't feel other buyers are going to

1 show up just because they can only buy for one. When they
2 have three different orders, who gets the cattle? Whoever
3 gave them the best order.

4 So we have a concern about that and others.
5 But we support the overall concepts of it. And it's very
6 hard, as producers, to read the law, comprehend it, and
7 then look into your crystal ball and see how it's going to
8 affect the way we do business in the future. So we -- as
9 referees, we encourage you to use caution when you're
10 engaging in refereeing.

11 MR. LARSON: Good afternoon, my name is Daryl
12 Larson from McPherson, Kansas. My brother and I are
13 cow-calf people. We also have a dryland farm operation.
14 For the last 10 or 12 years, my brother and I have
15 retained ownership on a portion of the cows -- calves that
16 we raise. Out of the total of number of years, we
17 probably made money a couple of years, broke even five or
18 six years, and lost money more times than we made.

19 Now, in my opinion, the competition is
20 basically gone at the buying level because they say we
21 still have the choice of the cash market. In reality, the
22 cash market is basically worthless. Whether you have
23 average cattle or top-quality cattle, our cash market is
24 worthless. So the only thing we -- the only choice we
25 have is putting them on a grid or some other form of

1 marketing arrangement.

2 If the packing industry was trustworthy, in my
3 opinion, we wouldn't need any of this. If humankind could
4 regulate themselves and be honest with everybody, we
5 wouldn't need this. But for 100 years or more, there's
6 been a problem with the packing industry not being honest
7 with us, as producers, and it's time that we have some
8 sort of rules to protect us from the people in power.
9 Thank you.

10 MR. METZGER: I'm Doug Metzger from Kansas,
11 and I've been in this livestock industry for 60 years.
12 I'm one of the old guys that started off in cows when he
13 was a little kid and then raised -- went on to raising
14 turkeys and hogs and beef cattle, and I've still got them
15 all. But the last two years have been the worst that I've
16 seen in the industry with the high-priced grain.

17 But when we had open livestock river markets
18 where we could all take our stock there, why, everything
19 was more competitive. We had some good years; we had some
20 bad years. But it was competition. And like in the pork
21 industry, turkey industry, there was a lot of competition
22 in the '50s, the '40s, and the '60s. And then the big
23 companies started in with the contracting, and things
24 started going downhill. And now our turkey plant in
25 Gibbon, Nebraska, went broke last year producing

1 commercial turkey.

2 Well, I produced a turkey for Heritage Foods
3 in New York, especially turkey like we did 50 years ago,
4 and I get a pretty good price for them. And the same way
5 with the Berkshire hogs like Chris Petersen does. But
6 there is no competition today like there was back then. I
7 support what Daryl Larson says over there. It's just
8 concentration and we don't have any way to set a market
9 price anymore. And it's basically since packers left the
10 river market and went to the country. I said -- way back
11 in the '60s, I said, They're not coming to the country to
12 give us more. There's some reason they went to the
13 country. Thank you.

14 MR. BLAIR: My name is Rich Blair. I'm from
15 Sturgis, South Dakota, and I'm a cow-calf guy. I'm a
16 cattle guy. I've fed cattle. I've bred cattle. I've
17 artificially inseminated them. I've embryo-transferred
18 them. I've sold them to the packer. I've bought them
19 from other producers.

20 I'm against the GIPSA rule because I think
21 we're chasing the wrong boogeyman here. When you -- you
22 know, Secretary Vilsack asked the question, How can we
23 keep young people down on the farm? How can we make rural
24 America strong again? And I think the answer to that,
25 number one, is USDA needs to aggressively go after export

1 business. Since 2003, since the mad cow and we lost our
2 export business, I think it's cost us \$100 a head on
3 average.

4 You know, another big problem in the ag
5 industry is costs. I mean, costs for fuel, costs for
6 health insurance, costs for input. I mean, the ethanol
7 program, whatever it's done, it has increased costs at
8 probably 150 bucks a head for feeder cattle in a feedlot.
9 The cow-calf guys are here today telling you it's not
10 working. And that's their problem; it's not working. But
11 to me, they're chasing the wrong guys. They're
12 chasing the feedyards and the packers. And the feedyards
13 and packers are saying, Hey, guys, we're not stealing all
14 your money.

15 And I've fed cattle. I believe them. I don't
16 think they are. I think the problem in the cattle
17 industry -- we've got to get together. We've got to push
18 exports. We've got to push demand. USDA can help push
19 demand. I mean, the food pyramid, I think, is a problem.
20 I mean, the beef industry and the pork industry -- I mean,
21 in total, has taken a bad name. Help us tell that story.
22 And that's my comment.

23 MR. LAMB: My name is James Lamb. I'm one of
24 the young farmers that returned back to farm. I'm from
25 North Carolina. I'm a contract swine nursery producer. I

1 came back to the farm at the age of 16 after my father
2 passed. I started out as an independent. But I saw that
3 I couldn't compete with contract growers. So after
4 college, at 25, it was hard to get money without a
5 contract. So that's the route I've taken.

6 I've had nothing but a good relationship with
7 my integrators. In the late '90s when prices were \$0.08,
8 I still got my contracts. And last year, my integrator
9 was leaving \$20 per head that he marketed, and I was still
10 able to receive my payment, which allowed me to stay in
11 business and stay on the farm.

12 My fear with the GIPSA rule is that by
13 limiting the contracts -- maybe unintentionally -- it
14 might make it more difficult. If they wanted to change a
15 contract, they may do more vertical integration with the
16 fear of getting sued if some legal means said that the
17 GIPSA rule was to pass. So on that note, I'm not in favor
18 of passing the GIPSA rule. Thank you for your time.

19 MR. FOSTER: I want to thank everybody for
20 hearing us. I'm Jim Foster from Missouri. I'm 55 years
21 nonstop raising hogs -- also cow-calf.

22 I'm here for one reason; these guys on this
23 picture. These are my three grandkids that are absolutely
24 nuts about raising hogs. In my county, we had enough hog
25 producers to fill the fellowship hall of my church 20

1 years ago. Today, there's six. These little boys, their
2 daddy, me, and another guy. Why? Cargill owns almost all
3 the hogs in my county. We used to have two other
4 integrators that owned hogs. They got in deep trouble.
5 Cargill owns them all.

6 Now, down a couple of counties to the south,
7 there's a collection point that's one of the few in
8 Missouri where they get any hogs. They get about ten pot
9 loads a week. The major -- one of the major four packers
10 pulled out a business at that place because we got tired
11 of making four or five checks and keeping track of the
12 hogs on a pot load. That tells me that you're going to
13 have to have 180 head of hogs every two weeks if you're
14 going to get them for better.

15 Somebody that's against these rules, come tell
16 my three grandsons that they're going to start out with
17 250 sows to be able to get bid on for those hogs. I can't
18 believe that anybody would be against all the rules. I'm
19 sure they've got to be tweaked. And I appreciate other
20 people's opinions. But the rule where you've got to show
21 injury to everybody is like the murder -- you know, you
22 don't show injury to all of the other people because you
23 murdered one guy. That's crazy. And the arbitration, my
24 goodness. If you guys are in contracting, please look at
25 that stuff. You'd better think about it.

1 There seems to be a thought too that all these
2 animals are going to be commodity priced. There's going
3 to be no differentiation. I want to bring up the Missouri
4 price reporting bill which some have said, This is simple.
5 It had 12 exemptions. There was a lot of room to prove
6 that -- why they paid different prices. So I'd say we've
7 got to go with some things. We need a referee. Thank
8 you.

9 MR. HOUSTON (phonetic): I want to address
10 most of you here. My name is Otis Houston, and I'm from
11 Buffalo, South Dakota. I've only got one contract.
12 That's with my wife. We raised nine children. We did it
13 on 1,520 acres of land. We've added 1,000 acres to that.

14 When I raised hogs and farmed, we did that for
15 20 years. I've seen lows and I've seen highs. When
16 Smithfield Foods came through and bought sows for \$8 a
17 head and sold them for 480 on the shelf, I slid
18 "Successful Farmer" across to my wife and I said, That's
19 it; hogs are done; we're going to move to another entity.
20 We're in the beef cattle business now.

21 We hay out all of our cows. I think we've got
22 some of the top gaining calves in my county. I don't
23 think anybody's going to top our weights. All I'm asking
24 here today if we don't have a bottom floor on these
25 markets, if feeder packers can come in and steal any

1 calves some day like they stole my hogs, I'd just as soon
2 sell the cow herd tomorrow and I'll go do construction.
3 There is no need to keep running a business that's
4 unwelcome in our nation.

5 Children, I've done the math on it. I raised
6 these nine kids on 1,520 acres of land in Harding County,
7 if any of you have been there. If you multiply that
8 times -- or divide it into the acres in that county, we
9 should have about 5,000 kids raised every year. We just
10 put in a new school. I could fill that if I had more men
11 like me. We just need a bottom-line market. Don't steal
12 our cattle. We'll fill the schools.

13 MR. SCHMIDT (phonetic): Good afternoon. I'm
14 Mack Schmidt from Omaha, Iowa. One of these dying breeds.
15 I'm an independent hog producer and I'm proud to be a
16 farmer. We raise corn, soybeans, and hogs. We work at
17 about 30,000 hogs a year and we have no contracts with
18 anyone. We -- I am entirely on the open market. I have
19 very good relationships with the packers, and I've sold to
20 all the major packers in the Midwest this year, and I have
21 a good working relationship with all of them.

22 The comments I wanted to make this morning --
23 or this afternoon here we go back to what Attorney General
24 Holder said this morning when he asked us, We need to
25 return to our core values. And even Secretary Vilsack

1 returned to those core values. And I'd just like to touch
2 on some of those.

3 Independents, that's what we are as producers.
4 Self-reliant, you bet. Don't stand in front of us. We
5 need to figure it out. Let us figure it out and we'll get
6 the job done. Self-discipline, we exercise that. We know
7 right from wrong and we know enough to respect others.
8 These are all values that were taught in us. But as we
9 seek to return to our core values, we're talking about
10 personal values. And this doesn't necessarily carry over.
11 Because in our economic situation, time has marched on.
12 If this hearing was decade ago at least, it might have
13 been more relevant, as far as I'm concerned, in the hog
14 industry.

15 Today, as I look at it, I wonder, Who am I to
16 tell these other people who are -- as we just heard the
17 young man from North Carolina explaining he's found his
18 place producing for someone else. He has found a way to
19 manage his risk and raise his family. I think we need to
20 step back and look at all of those changes that have taken
21 place and we need -- in our own operation, we figured out
22 we weren't very good at farrowing.

23 We had 1,500 sows. We contracted with a gal
24 that's got 1,200 sows. I'll publicly admit I'm
25 embarrassed to say she produces 100 pigs a week more than

1 we ever did. So we found out that's not what we're good
2 at. And we gave it to her and we stepped back. Two
3 comments. Let the market tell us what works best --

4 MR. STALLINGS: I'm sorry.

5 MR. SCHMIDT: -- and government regulation
6 will not bring the desired results.

7 MR. STALLINGS: Thank you.

8 MS. CARTER: Good afternoon, my name is Brandy
9 Carter. I'm a cow-calf producer from the Flint Hills in
10 Kansas. I'm here today as the executive director of the
11 Kansas Cattlemen's Association. We have 1,700 members in
12 the state of Kansas and several others in other states
13 that are supporting our cause. But we are the largest
14 cattle-producer organization that is solely producer
15 driven and whose sole purpose is to represent producers in
16 our industries in the state of Kansas. We receive no dues
17 from packer-owned cattle.

18 In 1998, our organization was founded because
19 there were a number of producers who saw the movement into
20 large amounts of captive supply in the industry. We began
21 seeing lower cash markets and a lack of market access.
22 There was a bus full of us that came yesterday. We
23 started about five o'clock in the morning. And these
24 producers were not forced to come here. 40 of us decided
25 to get on a bus as producers to let you know that we

1 wanted to support your efforts to improve competition in
2 our industry and to provide fair marketing opportunities
3 for producers.

4 We need transparency in the market. Cattle
5 are traded on the open market. Behind-the-scene deals and
6 a number of captive-cattle deals, including "high of the
7 week" do not allow for timely transparency. This kind of
8 information only allows misinformation for producers to
9 make true business decisions. Packer ownership of cattle
10 does affect competition and it does affect the markets.
11 When packers own cattle they do have the ability to pull
12 their cattle and they have the ability to stay out of the
13 market. Not only does this drive the price of cattle
14 down, but it reduces market access. But more importantly,
15 the problem is the non-negotiated deals. Negotiation is
16 critical to maintaining our markets.

17 We as producers need transparency, we need
18 competition in our industry, and we need enforcement of
19 the Packer & Stockyards Act. Thank you.

20 MR. FERRELL: I would ask if the next display
21 of ticket numbers could be put up on the screen. And if
22 you see your number up on the screen, to go ahead and line
23 up at the microphones. So if that could be done now, that
24 would be helpful.

25 So we'll start over here.

1 MR. WERTISH: Gary Wertish. I'm the vice
2 president of the Minnesota's Farmers Union. I'd like to
3 thank the administration and Secretary Vilsack and
4 Attorney General Holder for holding these important
5 workshops on agriculture. On a proposed GIPSA rule, I
6 guess we'd like to speak in favor of the rule.

7 Earlier this summer, I attended a Minnesota
8 cattlemen's meeting in West Central Minnesota. And in
9 the evening, at the banquet -- or supper, about 500 or 600
10 people attended. And there was a Tyson cattle buyer who
11 spoke to the crowd. He made a couple of comments that
12 were very concerning to us. One, he told the producers he
13 was paying too much for the cattle. Then he started --
14 too much for their cattle.

15 Then he started talking about the proposed
16 GIPSA rules and how it would affect them. And he was
17 encouraging the producers to write their comments during
18 the comment period. But the comment that really struck
19 me, he said, If these proposed rules go through as
20 proposed, we will have to follow the rules. I was told
21 that at a public meeting, West Central Minnesota, by a
22 Tyson cattle buyer.

23 Now, you know, it's an election year. We all
24 should -- I guess we're all getting used to a fear of
25 politics. We've heard a lot about fear of politics here

1 on the proposed GIPSA rule. The one talk -- the one
2 fear-of-talking point we heard a lot was about the
3 vagueness of the GIPSA. Well, there's one thing I think
4 we can all agree on here in the room. There is not any
5 vagueness when you drive around the countryside and see
6 the empty buildings -- the empty feedlots, the empty
7 buildings and farmsteads that at one time families --
8 farmers were raising their families, producing livestock,
9 being involved in a local community. I think there's no
10 vagueness about that at all. Thank you.

11 MR. BUHL: Good afternoon. I'm Don Buhl from
12 Tyler, Minnesota; a wheat-to-finish hog producer. We
13 are -- we own all of our own hogs. I want to reinforce a
14 couple of things very briefly. The thought about the
15 regulation impact on industry, I think, is significant. I
16 want to agree with those comments made earlier. The other
17 thing is we have three trade agreements that are pending
18 that have been sitting there, and that is important that
19 the administration get those approved.

20 As far as price discovery, the comment was
21 made that 5 percent of the hogs are in a negotiated
22 market. It was pointed out to me that does not include
23 they are traded between packers. In the pork industry,
24 those prices are reported, but they are in excess of the 5
25 percent. Having said that, among producers like myself,

1 we agree that that number needs to be a little higher.
2 And I think that it's our responsibility as producers to
3 take it upon ourselves not to contract, but to have some
4 hogs that are always available for open market in every
5 group. So I want to make that very clear.

6 I am very uncomfortable with the government
7 legislating that because I'm worried about how that would
8 be implemented. We need to have, in my personal opinion,
9 the ability to have a marketing contract. And so I'm
10 concerned if the GIPSA rule makes that a lot more
11 difficult to handle. Within that contract, I think it
12 would be good not to have the ability by either party to
13 alter that contract during the duration of the contract
14 without the approval of both parties. Otherwise, you'd
15 have the potential for mischief.

16 I want differentiation between production and
17 marketing contracts. Because those issues can be very,
18 very difficult, very different. And also, between species
19 there are differences in what the contract issues might
20 be. I have a good relationship with my contract growers
21 and I don't want to have to turn them into the authorities
22 just to work with them on a problem. It's something I've
23 seen and it concerns me. Thank you.

24 MR. RAINEY (phonetic): I'm Gary Rainey,
25 Southern Colorado. These are comments that came to mind

1 as we had many fine panelists and speakers today;
2 questions that crossed my mind and I -- I guess these are
3 the answers, in my mind, of what I saw.

4 I'm from a farming-ranch family of which I am
5 the fifth generation and my son is the sixth. I've been
6 actively involved in the cow-calf operation, the
7 stocker/feeder, and the feedlot end of the business. In
8 all of these, I strive to identify my customer, the
9 person the -- the person or entity I will be selling to.
10 I have not asked them to come identify me. I also buy
11 feeder cattle for -- excuse me. My comments from these
12 observations are things that -- over the last 40 years
13 that I've watched the transition of this industry
14 from a -- and be refined into a much more mature industry.

15 In reference to the young producers entering
16 agriculture, there are barriers to entry from huge capital
17 requirements, barriers to entry from estate taxes,
18 barriers to entry if an operation is of an insufficient
19 size to support one family but not large enough to -- and
20 especially not large enough to accommodate father and son
21 or granddaughter as they wish to enter the operation.

22 We also have to recognize that operators that
23 produce at an older age are not turning the operations
24 over to the younger people, the new generation, as often
25 as they -- or as -- in the shorter time that they used to.

1 Some impossibly young producers do not make all solid
2 business plans that are marketable and bankable. In all
3 of these cases, who do we blame for these? Can we really
4 blame a packer or a retailer for things that are a social
5 evolution within our business -- change and structure of
6 business that has evolved over time?

7 I guess another example would be too we talked
8 about concentration. We had a group of farmer feeders
9 gathered together that bought a feedlot in our area. Did
10 they do it to decrease competition or did they do it to be
11 more efficient? Thank you.

12 MR. BLACKWELL: My name is Buddy Blackwell,
13 and I'm in the livestock auction business in Cuero, Texas.
14 I'm also the vice president of the Texas Livestock Market
15 Association. The Livestock Market Association of Texas is
16 the sole trade group in the state of Texas representing
17 115 member auctions, livestock movers and buyers.
18 Livestock auctions are the voice of the largest livestock
19 consistency in the state of Texas with approximately 100
20 auctions representing over 125,000 producers that marketed
21 over 5 million cattle in 2009.

22 Livestock markets that continue to guarantee
23 an open marketplace for competitive bidding improves the
24 value of every class of livestock sold. Auction markets
25 also help producers navigate the industry regulations,

1 technology, marketing programs, and operate a vital link
2 for the state animal health death protection, livestock
3 research, and promotional programs. Livestock auction
4 markets represent the truest form of competition and price
5 discovery in the livestock industry.

6 Every day, thousands of producers sell
7 livestock to the highest bidder in the open market. The
8 cash market for livestock is largely established at these
9 public sales. The importance of the competitive auction
10 markets, particularly for the independent producer, cannot
11 be underestimated. Recently, GIPSA published -- proposed
12 rules that -- rule changes that would bring change to the
13 livestock market transparency and open livestock trading.

14 Everyone understands and appreciates the
15 delicate balance that GIPSA attempts to achieve between
16 the competing forces of instilling more competition in the
17 marketplace without doing harm to the structure that's
18 already in existence. We do support the continued efforts
19 of GIPSA and USDA to increase market competition and add
20 transparency to the livestock market industry.

21 Particularly, we support the GIPSA rule
22 provision that protect the cash market for fed cattle.
23 The cash market for fed cattle is the price discovery
24 market for all fed cattle, including those sold under
25 alternative market arrangements. USDA and the Department

1 of Justice must take immediate steps to protect the
2 integrity of the cash market of fed cattle so it can
3 function like the nation's auction markets to discover the
4 competitive price of cattle. This is essential to protect
5 against market manipulation, which causes lower prices in
6 the cattle market.

7 And to close, about 10 or 12 years ago, it was
8 one of the first concentration hearings that was held in
9 St. Louis. I was eating dinner, sitting right next to Bob
10 Peterson. And I asked him -- I said, Well, how do you
11 think the meeting went today? He said, Well, Buddy, I
12 don't have any animosity towards you or any of your
13 friends; but if the P&S doesn't stop Monfort from feeding
14 their own cattle, we're going to get it big time; and I'll
15 show you what that will do to this industry.

16 MR. FERRELL: Folks, remember to keep comments
17 to two minutes.

18 And we'll start over here.

19 MS. KNIEBLE: Good afternoon, my name is Mary
20 Ann Knieble. And I am a commercial cow-calf, seed stock,
21 and feedlot operator from Kansas. And this is our 132nd
22 anniversary for our ranch. And our history is somewhat
23 unique because we have always finished our own calves --
24 our own home-raised for harvest from driving them to the
25 railhead to our current ownership in U.S. Premium Beef.

1 Our income dollars for our ranch has been generated from
2 the beef we raise directly for harvest.

3 Past 20 years has seen significant change for
4 us. Prior to these changes, our ranch was a smaller
5 operation that was only one operator at a time. And
6 conversely, we now have three family members involved.
7 And I feel it's important to point this out because we're
8 not working on inherited money, because we've tripled in
9 size since 1990. And what has helped us to achieve our
10 growth and ability to include other family members in the
11 operation is how we sell our cattle.

12 We average close to \$100 per head above the
13 cash marketed premiums due to our management. That
14 includes many different programs all of which have
15 surfaced in the last 15 years. We sell around 450 to 500
16 finished animals per year, which is not a lot in the big
17 scope of things. But that extra 40,000 to \$45,000 a year
18 in income makes a huge difference to the bottom line of
19 our ranch, and it allows us to keep more family involved.
20 And it's also rural development.

21 Now, it's been pointed out that the proposed
22 rule changes will not affect the premiums available to
23 these diverse marketing groups. And we do not agree with
24 that statement. Unfortunately, we live in a litigious
25 society. And the openings this rule leaves for filing

1 unjustified lawsuits is unacceptable and potentially
2 catastrophic. I also take umbrage at the reporting that
3 these regulations would like to entail.

4 Our management practices that we utilize for
5 the premiums that we do is a huge invasion of privacy.
6 And that is the equivalent to -- it's our intellectual
7 property, and it's not something I feel I should have to
8 expose to the world for free. I hear people that say they
9 want more transparency, and I equate that to not wanting
10 to do your own marketing. We're a small producer and we
11 found ways as many others have said they have in the room
12 today. And they are open to everyone, but you do the work
13 to seek those out. Thank you.

14 MR. NELSON: My name is Larry Nelson. I'm
15 from Buffalo, South Dakota. Also, we -- I haven't raised
16 any kids. But I do raise cattle and sheep. And I was not
17 going to talk up here today, but there's been a couple of
18 statements made about the sheep part of this thing that I
19 would like to comment on. Mr. Rishel -- William Rishel,
20 who was on one of the panels -- made the statement that
21 because the sheepmen didn't promote their industry, they
22 lost their industry. I've always been interested when
23 somebody says that because it's generally stated by
24 folks that aren't in the sheep business and don't know the
25 history.

1 Sheep numbers in the United States peaked in
2 the 1940s at 40-some million head. In 1954, Congress
3 passed the National Wool Act which paid the wool incentive
4 out to producers. Subsequent to that, a portion of that
5 wool act was checked off and the old American sheep
6 producers group promoted sheep for many, many years. We
7 lost the -- that wool act in 1954 and then sheep promotion
8 did stop. What happened to the numbers in those times?
9 We went down to about 11 million head.

10 Now, by what measure is a promotion program
11 successful that has those kinds of numbers? Now, that
12 really doesn't have a lot to do with what we're talking
13 about today. Mr. Harper made the observation that, What
14 have we got -- what do we do to get more people in sheep;
15 we're going to lose the industry. I'll tell you what you
16 do. You pay people enough for lambs so that they can make
17 money run. It's just that simple.

18 I've got -- there are a couple of cases in my
19 county where people sold cattle and went into sheep
20 because that happens. I'm sitting here and I hear
21 statistics every day -- every week that the cattle numbers
22 went down 2 percent per year. I've heard seven years,
23 eight years, nine years, ten years. What we're doing is
24 we're working for the cow-calf. And I think, Mr. Butler,
25 that we do need to proceed to these rules and we've got to

1 try something different if we don't end up -- or we'll end
2 up just like the sheep people did.

3 MR. ANDES (phonetic): I'm Bruce Andes from
4 Missouri. I'm a pork producer there. My family has been
5 involved in this business. My dad specialized in the pork
6 business back in the -- in 1954.

7 One thing I'd like to just reiterate today is
8 that Missouri passed a livestock price discrimination bill
9 back in '99. It took affect in '01. It was very
10 devastating to our industry. It cost somewhere between 19
11 and 20 million in the livestock industry then. These
12 GIPSA rules that are being proposed right now, it seems
13 like they'll do the same thing. Guys, that was mistake.
14 And I think you need to really look at that. Because you
15 could do the same thing, and it wouldn't be just affecting
16 the state of Missouri; it would be affecting the whole
17 United States. And Governor Bob Holden had called a
18 special session to clean up that mess that the legislature
19 created.

20 You know, I've got a couple of kids, or
21 whatever, that would like to come back to the farm. We're
22 doing really well. We can compete with any of the
23 integrators. We're an independent operation. We market
24 with some other producers. We've got a very good cost
25 structure. You know, I just don't want the government,

1 you know, getting in the way and screwing up what we've
2 got that's working very well for us right now. And I
3 think, you know, if you kind of -- if the government could
4 kind of get out of the way and wouldn't regulate us as
5 hard, you know, you just turn us loose and you watch what
6 we can do or whatever. Because we can flat produce in
7 this country.

8 And to reiterate, if I would have your time
9 and energy rather than working on this stuff, you know it
10 seems to me it would make a whole lot more common sense to
11 work on those free trade agreements and get those opens
12 up. Give us a place to sell more product and we'll --
13 because we're a bright spot in this economy, the livestock
14 sector. Thank you.

15 MR. FERRELL: If we could go ahead and have a
16 new page ticket of numbers, and then we'll get started on
17 those as well. All right.

18 MR. DAVIDSON: Hi. I'm Brian Davidson from
19 Marathon, Iowa. It seems to me that all the money the
20 government is trying to -- spending trying to stimulate
21 the economy, that any new policy should correspond with
22 progress. By implementing these proposed rules, it would
23 limit farmers' abilities to sell their own animals and
24 dictate terms of private contracts. Because of
25 unnecessary costs of bureaucracy, the rules will stifle

1 any incentive for innovation and eliminate jobs in rural
2 America.

3 We need to be careful not to assume that if
4 there's an issue with one portion of the industry, that a
5 blanket policy is the right way to go. For example, my
6 job as a grower sometimes requires me to sell on a Sunday
7 or a holiday. Because I feed and specialize in an
8 all-natural program, it allows my contractor to receive
9 the premium because of the added cost to produce this
10 product. This program also fills a specific consumer
11 demand. The added red tape of this bill would raise
12 consumer prices and reduce choices at the meat counter
13 while penalizing our ingenuity and extra efforts.

14 The above example is a basic but sound
15 business plan based on good, old-fashioned free
16 enterprise. It seems the government gives us what we need
17 to establish a good business model in one bill and then
18 ties our hands in the next. The government should not
19 micromanage our private business. This country is losing
20 our world leadership status because Americans have become
21 lazy and selfish. I'm saying any of us here are lazy, but
22 we all need to start working together. America, in
23 general, is losing their attitude.

24 I personally am on my fifth contract with
25 Murphy Brown, and every contract has been notably better

1 for the grower. If it weren't for my contract, I honestly
2 wouldn't know what I would have to be doing to survive.
3 These people are my friends, not my employer. I farm 350
4 acres, have three Murphy barns, and an off-the-farm job.
5 My contract is essential to my family's well-being.
6 Please consider these two minutes of your time a lifetime
7 for my family and five daughters. Thank you.

8 MR. SHEETS: Good afternoon. I'm Leon Sheets,
9 pork producer from Ionia, Iowa, up in the northeast
10 corner. I've got a 1,200 sow farrow-to-finish operation.
11 I also have a small cow-calf and run some corn soybean
12 rotation.

13 I started out raising feeder pigs. And for
14 those of you who have been having issues with selling to a
15 packer or on the beef side, you really ought to try to
16 sell feeder pigs through your neighbors. It was just as
17 difficult and the same issues came up. And so in the
18 mid-'90s, I and my wife made the decision that we would
19 move into finishing our own pigs because it seemed to be
20 that that was not -- selling feeder pigs had too many ups
21 and downs. The lender agreed with it.

22 To minimize our risk, we needed to add on more
23 finishing space, and so we chose to visit with some of our
24 neighbors about doing some of the finishing on their
25 interesting facilities that they had exited. So we

1 started some relationships, signed some contracts with
2 some neighbors. To do part of this, we sat back with the
3 lender, took a look at what -- the extra dollars it was
4 going to make. And from a business model, we went out and
5 started visiting with harvest partners, what they could
6 offer us.

7 We signed up one, going through '97, '98. For
8 pork producers -- remember those years, we've heard about
9 it. It was a God send. It got me through ten years and
10 we upped -- moved, growed (sic), and progressed. And I'm
11 glad to say now that because some of those, ten years ago
12 I would have said, My son will not return. Three years
13 ago, he returned. And right now, this new technology
14 is that he taught me how to text a little while ago. And
15 I'm thinking he's wishing he wouldn't have right now.

16 But what is important is that I had a
17 relationship with my harvest partner and my grower
18 producers. But one of the things that came out -- it was
19 not about the dollars I received on the basis. It was not
20 about the premium. But what got important in the pig
21 operation is I have 500 pigs that need to move out of the
22 farrowing barns every week to make room for new sows. I
23 need to move 500 pigs out of the finisher every week to
24 room for those pigs coming out of the nursery. I need a
25 time factor to get that done. And then in the process of

1 negotiation, it's important to me that we have a
2 relationship, when I need to move animals that it can be
3 done.

4 As I read -- and I need clarification on this
5 proposed rule is -- I think that will take away some of
6 those abilities, because it is important to me. So
7 please, have your folks review and make clear what they've
8 done.

9 MR. KAMMERER(phonetic): Good afternoon. My
10 name is Marvin Kammerer. I'm from Black Hills, South
11 Dakota. I'm from the family that walked into the wagons
12 in 1882. Good bless America that we can still have people
13 who come here and, I hope, listen to the survival of
14 American agriculture, especially the American cow and calf
15 producer.

16 Grandfathers -- that's what I am, is a
17 grandfather. I've got five kids still on ranches.
18 Others -- you know, my grandkids are either in school or
19 pulling their own weight. I should be in Fort Pierre,
20 South Dakota, today at the State 4H rodeo finals. I have
21 three children there, grandchildren. That's where I
22 belong. Here I am, 73-plus years old, and here I am
23 trying to fight for the rights of those who are coming
24 after me and those not yet born.

25 God bless the city people and the labor people

1 who came here to share their concerns. Grass roots
2 people, people who produce new wealth, are becoming fewer
3 and fewer. Every cow that's bred this spring -- sheep,
4 whatever -- next spring comes something that's never been
5 here before. That's new wealth. And we don't want to
6 turn it over to the packers. Enforce the Packer and
7 Stockyards Act. Don't let these boys who come to
8 Washington with pockets of money set there and bribe our
9 congressman year after year after year.

10 You people may have to step outside the box
11 and become men and take our side. Get out of the
12 independent -- this nation is not going to survive. This
13 republic is dead if we don't start changing things
14 quickly. Thank you.

15 MR. STIKA: Good afternoon, I'm John Stika,
16 president of Certified Angus Beef. And I just want to
17 share that the Certified Angus Beef brand is a subsidiary
18 of the American Angus Association, which has a long
19 tradition helping producers add value to their cattle.
20 Producer members of the association planned ahead for the
21 value-based future we have today by investing in genetic
22 evaluation and establishing this very brand more than 30
23 years ago. And since that time, value-based opportunities
24 have only expanded for producers and pull through consumer
25 demands function successfully.

1 We urge that great care be given to ensure
2 that no one who has worked to add value of their herd in
3 an effort to meet consumer demands find fewer marketing
4 opportunities to tomorrow, even if that development is
5 unintended. Now, we fully understand the proposed GIPSA
6 rules don't spell out a required end to value-added and
7 value-based marketing. However, it is possible that
8 efforts to comply with new provisions could logically
9 result in fewer value-separation opportunities for
10 high-quality cattle compared to average commodity cattle
11 that risk a decline in consumer demand for beef.

12 Unintended consequences of rule changes could
13 actually harm the interest of fairness in the beef market.
14 For example, if a proliferation of newly required
15 paperwork makes it less profitable for packers to offer
16 alternative marketing arrangements, then producers will
17 not be paid premiums based on true value. The idea of
18 improving fairness in the marketing of livestock is
19 something we all should support. How it should be
20 achieved is a matter of opinion, but it does little good
21 to enhance fairness on one hand while potentially
22 restricting it on the other.

23 We all want charity in the rules, if
24 necessary. But our consumer-driven industry can't afford
25 the kind that throws the baby out with the bathwater, so

1 to speak. We can all have the kind of clarity that
2 negates its intent by opening the doors to a long series
3 of lawsuits to further clarify. Therefore, we urge
4 caution to -- in attempting to clarify a policy by using
5 only selected opinions without greater consensus on both
6 the direct effects and potential side effects resulting
7 from efforts to comply with change. Thank you very much.

8 MR. BRUSS (phonetic): Good afternoon. My
9 name is Craig Bruss. I come from North Central
10 Washington. I drove 1,500 miles to get here today to
11 thank you for the opportunity that the livestock industry
12 has. We're grateful that somebody finally has woken up to
13 the fact that something has to be done or we're losing all
14 of our producers. My operation is a 750-cow deal. I've
15 got two boys involved. We feed cattle. We market
16 pure-bred Angus bulls and we market feeder cattle.

17 My concern is packer concentration. All you
18 have to do -- it isn't the number of cattle that are --
19 that the packers are -- but it's how they strategically
20 place them in the market. Whenever this thing starts to
21 heat up, it looks like we -- all you have to do is look at
22 last week. I mean, you don't got to dig too deep. Look
23 at last week. Cattle hit a buck one, buck one and a
24 quarter.

25 And all of sudden, the next week, they go back

1 and look at the kill, look at cattle that came forward
2 this week. A big portion is -- a portion of those cattle
3 are select, select-plus cattle. Why? Because they
4 strategically took those cattle out of their supply,
5 brought them into the market. And what happened this
6 week? The market dips down to the 98, 99, depending on
7 where you're at with this. But the point is they
8 strategically place those cattle in market that tips the
9 market over. We can't continue to stay in the business.
10 Every time something happens like that, they step up, tip
11 the market over with their strategic supply that they
12 have. It isn't the number they have. We watched it
13 happen with the Canadian cattle.

14 Whenever that thing would heat up in
15 Northcentral Washington -- and I operate a livestock
16 market -- down come the cattle. It tips the market over.
17 All of sudden, I'm sitting a sale yard full of 850-pound
18 steers and there's not -- the market's \$2 to \$3 less than
19 it was the day I consigned the cattle. I can't continue
20 guys. We've got to do something different. Thank you.

21 MR. MURPHY: My name is Andrew Murphy. I'm a
22 cattle producer from Central Kansas.

23 The reason that I am here and the reason that
24 I have a job in this industry is because I'm a
25 third-generation cattleman. And these marketing

1 opportunities that we've had in the past are primarily the
2 reason that my father had room to get me back into the
3 operation. These are exactly the types of marketing
4 arrangements that this rule has potential to hinder. It
5 has the opportunity to damage and potentially limit our
6 ability to grow, limit our ability to be innovative. If I
7 didn't have a father who was involved in the operation,
8 that was innovative in this thinking process, again, I
9 wouldn't be here.

10 A couple of observations. And one of them is
11 a little bit tongue in cheek and the other one is fairly
12 serious. You know, what I've listened today -- and I had
13 a prepared statement, and I kind of tend to wing it every
14 once in awhile. So the prepared statement is kind of out
15 the window for just a second. I listened to the panels
16 this morning. I listened to everybody's comments here
17 this afternoon. And ultimately, I think there's a
18 common -- there's a goal here.

19 I listened to the panels this morning talk
20 about how -- that if they had less restrictions on their
21 ability to have a packing industry in Wyoming, had less
22 restrictions on the HASA programs, less restrictions or
23 more opportunity in the equip programs, and more
24 opportunity in the grants and the funding to build
25 infrastructure for new opportunities and new innovations

1 in their business. And at the same time, in opposition to
2 the GIPSA rule, we come in here and we say, We want less
3 restrictions on opportunities for us to be innovative as
4 producers. We're saying exactly the same thing. We're
5 pointing at different segments, but we're saying exactly
6 the same thing.

7 Secondly, having been in an operation that's
8 in these marketing arrangements -- and I'm going to insult
9 the packers a little bit. We work a lot with the packers.
10 And you guys give them a hell of a lot more credit for
11 being organized than they really are. They can't design
12 that well to be able to fill in the cattle market for a 98
13 versus -- they don't have any more clue than we do. So
14 with that, I'm going to be short of my two-minute time.
15 Thank you.

16 MR. KNIGHT (phonetic): I'm Mark Knight from
17 Highland, Kansas. I, too, am in operating agreements.
18 Those agreements were established back in 1989. In 1989
19 we found that in Central Kansas, that we would probably
20 not be able to get the markets that they would put the
21 packers as close to the feedyards as they were out west.
22 That's the reason we went and did what we did. And we
23 tried to -- like a lot of cow-calf guys in here, I've
24 heard today, they're trying to pool their resources in
25 order to get a better dollar for their customers. That's

1 one thing.

2 The second thing I want to talk about is
3 earlier today we talked about how are we going to get the
4 farm, the feedyards, all of these businesses, to continue
5 on in the future when we're all gone? It's been pointed
6 out, and I just want to reiterate, that the government can
7 do a lot of things and it can take away things. One thing
8 that we could do is get rid of the restrictions that the
9 EPA, ADH&E, all the Kansas rules that we have to follow --
10 everything that we make, whatever profits there are, there
11 seems to be a new regulation coming to where we need to
12 change something. Now we've got dust issues we're talking
13 about.

14 But if you wanted to do that, aside from
15 getting rid of the estate taxes, those are a lot of things
16 that you guys in government can do, is to have less
17 regulation -- because our ultimate goal is to feed the
18 world with the best, nutritious beef, tasty, in the whole
19 world. That's our goal. We want to get to the plate. We
20 bash packers all day long. We've got to have those
21 packers. They're in line -- from the very beginning, we
22 have the rancher, through us, to the packer to the end
23 user, bashing them. And I understand we need better price
24 discovery. But also we need them in our industry. Thank
25 you.

1 MR. BONNWELL (phonetic): Hi. I'm Brett
2 Bonnwell from Columbus, Nebraska, pork producer. I've
3 been in agriculture for 30 years. And one thing hasn't
4 changed since Grandpa and Dad and I sat around the table,
5 it's cursing those dammed packers. Some things never
6 change.

7 I'm very concerned with the GIPSA, the
8 rulings, and how that will affect our business. Our
9 industry -- at least the swine industry -- is the most
10 competitive in the world, not only in how we produce
11 product and our cost to produce it, but also in the
12 quality. That's very much, you know, shown by our exports
13 and how they continue to grow. I know the government is
14 trying to help. The government has always tried to help.
15 But a lot of times, there's a lot of things they're not
16 good at. One is getting into our business.

17 We have to compete in this world market, and
18 we need help not in help managing our business, but
19 opening free markets, which are there, which have been
20 sitting on the books for several years, and do -- the
21 political correctness with associations have not been
22 opened. Please, if you want to help pork producers, get
23 our markets opened up. We're the best in the world. All
24 we need is a fair playing field.

25 We think GIPSA will penalize the people who

1 are very good and help the people who are average. And
2 that's no way you're going to compete today in the world
3 market. We're better. We don't want to be average.
4 Rural America needs jobs. And without the pork industry,
5 we'll lose those jobs. In Nebraska, it's critical that we
6 have those. Our communities are shrinking. We're losing
7 our schools. We don't need any more regulation. In
8 Nebraska, we have a motto: We'll handle our business
9 ourselves; we do not need your help. Thank you.

10 MR. BARNES (phonetic): I'm Pete Barnes.
11 We're cow-calf producers in steak -- in Texas, running
12 stocker operations in Texas, Oklahoma, Kansas and
13 Colorado. We feed cattle in Oklahoma, Texas, Nebraska,
14 Iowa, and South Dakota. And I'm really against these
15 rules that you-all are trying to change. I mean, I'm
16 really against changing any of these rules.

17 To give you a good example, we have a real
18 small farm of feeders in South Dakota. This means they're
19 specially marked. I would not consider finishing cattle
20 without a contract from the packer before I place them on
21 feed. We got bid by two different packers. There's \$500
22 difference between the two bids. It's real simple. I
23 sold the cattle to the highest bidder. If we could not
24 have contracted these cattle, this young producer would
25 not have been able to buy this farm without a guarantee

1 from us about filling it.

2 We also produce a large number of cattle that
3 are qualified for the USDA non-hormone treated program
4 through the AMS. These are specially marked as well. I
5 do not feed these cattle without a contract before placing
6 them on feed. The premium are \$160 a head. However, we
7 have another \$100 of additional costs by doing this. And
8 if there is one too many out there in the market, then all
9 of a sudden they become commodity cattle. Why should a
10 person that's not willing to do the extra work to get
11 cattle qualified be able to sue a packer or possibly
12 myself to have them justify these premiums?

13 These extra efforts hurt the entire cattle
14 industry since the beef from these cattle are all exported
15 to the European union. I'm afraid this is just the start.
16 Washington apparently wants to regulate us all out of
17 business. On Monday, we sold on the superior livestock
18 videos 650-pound calves for \$1.23. On the same sale, I
19 bought 600-pound calf for \$1.10. I don't want the owner
20 of these cattle to be able to sue me.

21 Real quickly, let me make this final point.
22 Here's a short history lesson. The Packers and Stockers
23 Administration started in the 1920s to control the
24 big-five packers. To put this in retrospect, in 1917,
25 Swift & Company was the second-largest corporation in the

1 United States; not an agricultural company, but the
2 second-largest company in the United States. Now the
3 big -- and Armor (sic) was number five. Now the big three
4 is small parts of larger corporations. If being a packer
5 was so profitable, why haven't Budget, Murdoch, or Storris
6 built a packing house?

7 MR. OUTLAW: My name is Ben Outlaw. I'm a
8 third-generation pork producer and vice president of the
9 North Carolina Pork Council. There are some 2,200 hog
10 farms in North Carolina, and the North Carolina Pork
11 Council represents the farm families and production
12 companies that own and operate these farms. The swine
13 industry has been and continues to be a very important
14 part of the North Carolina economy.

15 The North Carolina swine industry accounts for
16 22.5 percent of all farm cash receipts and is the
17 second-leading source of farm -- gross farm income.
18 Combined effects of the swine production, pork packing,
19 and processing in North Carolina are over \$7 billion in
20 sales with an additional \$2 billion in value-added income.
21 Also, there's 46,000 full-time jobs generated by the pork
22 industry.

23 Just as production practices have changed
24 since my grandfather produced hogs, the industry in North
25 Carolina has changed. Nearly all the hogs in North

1 Carolina are produced on contract-integrated companies or
2 with packer contracts. The changes in the GIPSA rules
3 would be disastrous on the pork industry. By reducing,
4 limiting, or eliminating the contracts, many North
5 Carolina producers will lose large amounts of equity that
6 they have generated over the years and be forced to exit
7 the industry as they would not be able to secure financing
8 and withstand the risk by losing these contracts.

9 I believe that GIPSA needs to go back to the
10 Farm Bill and look at the five specific things it was
11 asked to do with the regulations. Then it needs to revise
12 these rules accordingly. Hog farmers like me and those I
13 represent need the freedom to operate the way we want. We
14 don't need the federal government interfering in our
15 business decisions. There's been a lot of talk about
16 bringing young people back to the farm and these contracts
17 that control risk and secure financing. Without them,
18 it's going to be much more difficult bringing young people
19 back to the farm. Thank you.

20 MR. ROGERS (phonetic): I'm Wall Rogers,
21 operator of R&R Cattle Company, a family-owned cattle
22 operator. I have two daughters and a brother, a cow-calf
23 stocker and feeder from Southeast Kansas.

24 At present, I am a KCA director, member of
25 KCA, and R-CALF for about ten years. We have been

1 involved in the cattle feeding business for approximately
2 35 years. From a fat-cattle market perspective, the last
3 two weeks have demonstrated how captive supply affects the
4 market. Kansas fed cattle grade volume has been about
5 82,000 head, including 41,000 head of captive designated
6 supply cattle. When this number dropped below 50 percent
7 or below, the cash market in this instance responded \$4 to
8 \$6 advance. When the packer has 60 to 70 percent of the
9 designated supply of cattle, they become very independent
10 in bidding on cash cattle.

11 We have seen a diminishing profitability over
12 the years. We simply need competition in the marketplace
13 in order to obtain real value. If these contracts are so
14 great, how come there's so many people still going broke.
15 Thank you. God bless America.

16 MR. KENSEY (phonetic): I won, and I
17 appreciate it. I'm glad to be here around so many smart
18 people.

19 I'm Brett Kensey. I'm 38 with a cow-calf
20 feedlot operation in South Dakota, along with my dad, my
21 34-year-old brother, been in the Army. That flag means a
22 lot to me. The country means a lot, family and property
23 ownership. I think that's what drives the whole thing.
24 If you really boil it down, you've got to make a living to
25 stay on the land. I've been here in the presence of

1 USDA -- I've been in the FSA beginning farmer program. It
2 got me going and I appreciate it. I'm going to try to pay
3 that back.

4 I guess I didn't come to talk, but my number
5 got called and I felt like I had to. I've got more
6 questions than I do answers. I'm here to learn. And I
7 guess some of the things that bother me is when you hear
8 about exports. Exports are important. They're really
9 important. They're key. But we've got the smallest herd
10 since the '50s and we're growing more meat from that herd.
11 But we import meat to fill our demand. So I don't see how
12 exports can be brought here today as the answer to our
13 problems.

14 There seems to be a lot of discussion about
15 these incentive programs with the packers. And I'm not
16 smart enough to know whether those things will go away
17 with this or not. But it just seems to me like we can
18 write this so there will be incentives there. I'm not
19 going to bash the packers. Packers are smart. They're
20 good businessmen. Their job is to buy it as cheap as they
21 can; my job is to sell it for as much as I can.

22 I'm young. I'm ambitious. Give me some
23 competition. I'll figure out a way. Thank you.

24 MR. COLLINS: My name is Jim Collins, and my
25 family and I are cow-calf producers in East Alabama and

1 West Georgia.

2 I come today with two different perspectives.

3 One is a personal perspective and one is a regional

4 perspective. As a partner in a fifth-generation

5 operation, we've been sustainable over 60-plus years.

6 I've spent decades improving not only our genetics but all

7 phases of our production practices from our health,

8 nutrition, handling, as well as developing market

9 relationships. All of these things were done with a goal

10 of maximizing our market access and improving quality.

11 As a result, we had several value-added

12 options available, including, but not limited to, our

13 producer-led feeder calf marketing association that

14 incorporates the quality assurance, source-of-age

15 verification, the VAC45 or VAC60 program, and it also is

16 involved with our local sale mart. Additionally, we have

17 the option to retain ownership in large or small

18 quantities -- some quantities a few as eight head --

19 collectively with other producers and marketing in product

20 on a grid using a QSA to enter a source-major market.

21 In the last two weeks, we marketed our entire

22 steer calf crop with other producers for the 17th year in

23 a producer-led cooperative board setting. These cattle

24 had several value-added claims and were a part of this

25 product we were offering. Ultimately, these cattle sold

1 at a premium for delivery in September and October. A
2 very diversified group of buyers were involved in this
3 sale; some as individuals, some representing value-added
4 marketing chains, and some representing both, which will
5 determine the feeding channels as they enter and are
6 closer to shipment.

7 From a regional perspective, I speak on behalf
8 of the Southeastern Livestock Network, which represents
9 over 50,000 dues-paid members of our member states. And
10 we have grave concern that the opportunity for producers
11 of all sizes to -- on their own decide to use these
12 options by their own choice to market these cattle might
13 be limited if we move forward with this process.

14 The other part we need to keep in mind is that
15 cattle are not homogeneous. Unlike commodity crops and
16 grains, there's a wide range in these cattle and we need
17 to recognize that before we move forward, assuming they're
18 all a commodity. Again, thank you. And please, keep
19 these in consideration.

20 MR. BUTLER: Good afternoon. My name is John
21 Butler. I manage a company called the Beef Marketing
22 Group out of Kansas and Nebraska -- no relation to the
23 Mr. Butler on the panel here. But I wish to express my
24 concern over the rules. And I'll just touch on one issue.
25 I have a number of issues. What we do in our company, we

1 harvest about 500,000 cattle a year. And we totally focus
2 on value added.

3 We totally focus on value-chain alignment.
4 And we haven't heard that word today, but that's basically
5 aligning everybody in the value chain that has a chance to
6 create value and exercise that through really
7 understanding what the consumer is wanting. And if we're
8 able to do that, we have a chance to reward everybody in
9 the value chain for their contribution to that value.

10 As I understand the GIPSA rule, this entire
11 concept will be threatened and jeopardized. And as my
12 esteemed colleague, Mr. Herring, mentioned earlier this
13 afternoon, we've been involved in programs where we have
14 to and we look forward to working with the ranching
15 community to identify those attributes, whether they be
16 sources of cattle or whether they be the genetics of the
17 cattle or where the cattle are handled and managed, all
18 the way through the entire system so that we can deliver
19 on a consumer demand and earn that added value that is
20 there.

21 And if these rules are put in place, what will
22 happen is that we -- that will be entirely taken away and
23 we will have an average price for all the cattle. And if
24 you think I can go into Montana or West Virginia or Kansas
25 and talk a cow-calf guy into participating in a

1 value-chain alignment program where the same price is
2 offered for all animals, it won't work. This whole
3 concept is driven so that we get out of the commodity
4 marketplace and we get into the value-added marketplace
5 and are able to compete in a very competitive protein
6 marketplace.

7 The other thing I want to bring up is that
8 today it was discussed that these contracts or that these
9 sort of formulas are not negotiated. I promise you they
10 are all negotiated. Now, they may not be negotiated every
11 time but they're negotiated from the beginning to
12 establish the business proposition. So I stand before you
13 today with concern over just virtually every piece of the
14 GIPSA rule and I thank you for your time.

15 MR. FERRELL: I think if we could start with
16 the next page of ticket numbers. And if you could line up
17 in front of the microphones if you see your number up on
18 the screen. Thank you.

19 MR. ROBBINS: I'm Lee Robbins. I'm a
20 fourth-generation beef producer from Gove City, Kansas. I
21 don't -- I didn't start out and build from the family's
22 operation. My wife and I built our own operation, and
23 it's been tough. We feed cattle. We do whatever we think
24 will be best to market our cattle at the time that we have
25 to market. We use the future as a market, which hasn't

1 been mentioned much. And you can still contract your
2 cattle ahead on the future market, as they do enforce
3 GIPSA, which I hope they do. I would think that even a
4 caveman could see that we have some serious problems in
5 this business.

6 If you want to -- if you don't want to change,
7 then we can go down the same trail as the chicken business
8 and they'll be gone. We can go down the same bit -- the
9 same trail as the hog business. When I was kid, we had
10 hogs. My father saw that it was going to turn into a big
11 corporate fiasco with small profits. We got out. We got
12 the biggest one in the county. If they don't enforce it,
13 as far as I'm concerned, the beef business is a "has been"
14 and the future will be gone.

15 We don't have to stop their value-added stuff.
16 They can still do that. I don't see anywhere where it
17 says they can't do value added based off of a live
18 discovered price. We've got to stop packer ownership. If
19 we don't, then, Adios. Thanks.

20 MR. MICHAELSON: Hello. My name is Travis
21 Michaelson. I'm from Mud Butte, South Dakota. I'm a
22 fourth-generation rancher there. I ranch with my father,
23 my father-in-law and my grandfather. We all work
24 together. We raise cattle and buffalo.

25 I appreciate the chance to be involved in

1 something like this and have access to officials in high
2 places like this and be able to air our concerns. One
3 thing I, as an insight into comparing a similar but
4 different market -- and believe me. I got made fun of a
5 lot for having buffalo a few years ago. The market was
6 pretty tough, you know. And there was -- it was a
7 completely free market. There was nobody supporting that
8 market. And there was no packer consolidation. There
9 still isn't. There's a large number of competitive
10 packers that bid on buffalo. Okay?

11 I want to point out the price disparity today
12 between buffalo and beef, which I think a large number of
13 cattle producers aren't aware of. You know, right now,
14 fat buffalo are bringing \$2.80 on the rate of hot random
15 weights. And cattle -- fat cattle are bringing in the
16 \$1.50 to \$1.60 range, while the retail price is largely
17 similar. Okay? I mean, yeah, there's a lot of
18 differences in those two markets. And buffalo is tiny,
19 tiny, tiny -- inconsequential -- in comparison to the beef
20 market. But they're similar; the red meat protein
21 sources.

22 And in many ways, they're similar in how you
23 handle them. They're similar in their cost structure.
24 There should be an explanation for why one similar meat
25 source of equal size is worth nearly twice as much as

1 another meat source of similar size in the wholesale
2 market. I think that's something that all these cattle
3 guys should think about. You know, how come is it that
4 the buffalo is worth so much more? One reason, I think,
5 is the buffalo -- the packers that deal in Buffalo are
6 completely unrelated to the packers that deal in the beef
7 cattle.

8 They're small, they're spread out all over the
9 country, and they're absolutely competitive. I sold a fat
10 load of heifers yesterday -- last week. I had seven
11 different buyers calling me, wanting to make a deal on
12 those fat heifers, you know. And believe me, I didn't get
13 discounted on a single one unless they were light on
14 weight. You know, class-wise, as long as I fed them the
15 way I sold them the way I did, there was no difference in
16 price, as long -- unless they were too light for their
17 deal, you know, unless they didn't meet the weight limit.
18 I just thought that was worth sharing today when we're
19 talk about competition. Thank you.

20 MR. LECHT (phonetic): I'm Dennis Lecht. I'm
21 an agent and director for the Southern Cattle (sic)
22 Stockgrowers. And I inherited a lot from my father. He
23 was -- I was the fifth of a family of five, and he kicked
24 me in the butt and told me, You'd better get to work
25 because there wasn't anything. That's a pretty good

1 inheritance, whether you like to admit it or not.

2 Now, what I'd like to relate to you -- I've
3 had trouble with the packers. I feed cattle. I
4 background cattle. I'm basically a feeder calf producer.
5 But I've done all aspects of it. I've had trouble selling
6 to the packers, and that's one reason that I don't feed
7 cattle anymore for the packers. But the story I want to
8 relate to you, we've heard a lot about premiums today.
9 Different people talked about premiums.

10 I went to a wholesaler and there was a
11 representative from Cactus Feeders there. And he gave us
12 quite a deal on premiums, the quality goals we were
13 looking at. And I got up and I asked him -- when he was
14 done, I said, You know, we are looking as some real
15 quality goals here today. I've been feeding cattle for
16 four or five years. I've got all the data on my cattle.
17 I could show where their yield is good, the grade is good.
18 I can show you where the feed efficiency of the cattle are
19 good. I want to know: If I buy these goals, how can I
20 get a premium from your feedlot?

21 And he talked around the question and he
22 talked around the question. And when he got done, I said,
23 You still haven't answered the question. How do I get a
24 \$0.05-\$0.10 premium for my calves? Well, he talked around
25 the question some more, but he didn't answer. And

1 finally, the third time I asked him, I said, Now, listen,
2 I've been hearing you talk a lot, but still haven't told
3 me how to get that \$0.05-\$0.10 premium for my feeder
4 calves. And he said, Cactus Feeders does not give a
5 premium; we buy on averages.

6 And so when I hear a lot of this stuff about
7 premiums, I get really skeptical. Because I believe the
8 big feeders feed on averages. I just want to share that
9 story. Thank you.

10 MR. TENNIGER (phonetic): I'm Bill Tenniger.
11 I'm a pork producer from Lamars, Iowa. I've been doing
12 this since 1969. I've been in this industry for a fair
13 amount of time. I have seen the pork industry change
14 dramatically from the time I started until today. I'm
15 still in the industry today. I'm a smaller independent
16 producer. I'm in the industry today because I have
17 learned to adapt. As my industry changed, I adapted and I
18 changed with it.

19 This workshop is supposed to be all about
20 competition. Competition, to me, is a good thing. Small
21 amounts of competition keep us -- keep producers on their
22 toes. Through the years, it's competition with other
23 producers in the industry that have made me improve my
24 genetics, improve the quality of my product. I don't look
25 at my packer as competition. I look at it as a harvest

1 partner. I have a good relationship with my packer. I
2 worry more about government regulations and how they're
3 going to affect my operation. I don't have a back room
4 full of attorneys to turn to.

5 This is potentially the biggest thing that
6 could probably put me out of business. The fact that I
7 would have to document any contracts that I have with my
8 contract growers that raise my pigs and the fact that
9 not -- possibly not being able to enter into a contract
10 with my packer to sell my production may affect my
11 financing -- I'm worried about the fact that there's a
12 possibility that we could lose the incentive to raise
13 better pork, better product and how that will affect our
14 place in world trade.

15 You know, the fact that 20 percent of pork
16 raised in the United States today is exported -- I like to
17 tell people, When you drive down the road and you see the
18 semi loads of hogs headed to the packing house, one out of
19 five of those are going to foreign exports. That, to me,
20 makes a big difference. And that is a reason why I think
21 in the Midwest, we are larger exporters than a lot of
22 people think. Thank you.

23 MR. UMPHIST (phonetic): Arty Umphist,
24 irrigated crop farmer from the Longmont area, which is 25
25 miles north of Denver here.

1 Let's face it. What this really is about is
2 profitability. And when it comes to profitability, you're
3 also talking about profitability equaling sustainability.
4 And I think vertical integration is something that really
5 needs to be focused upon. And we heard earlier today from
6 Robbie LeValley about a great way to break the integration
7 and make some profitability by forming a co-op. And I
8 think there's great merits to that.

9 As a person who grows sugar beets and has been
10 involved in witnessing the sugar industry in this
11 country -- the sugar beet industry -- transform itself
12 from mostly a privately owned industry into a farmer-owned
13 cooperative system, it has worked very well and there's
14 great promise there for livestock producers as well to
15 look forward to trying to form more co-ops and take
16 advantage of that vertical integration and get those
17 profits back into their pockets from selling to the end
18 user.

19 Let's face it. There's also another part of
20 the equation that needs to be factored, and that's
21 reasonable feed prices. And one of the things that's
22 going to impact that, in my opinion, is the ability to
23 continue to -- for crop producers like myself to continue
24 to grow genetically enhanced crops to allow us to use
25 safer and cheaper pesticides and result in higher-quality

1 beef for our livestock producers. We need to expedite the
2 process of getting round-up ready alfalfa back on the
3 market and allow us to plant round-up ready sugar beets
4 that also -- the sugar beet crop can also result in some
5 good protein feed supplements for our livestock producers.

6 And so I think that sustainability is
7 something we really need to look at and the ability to
8 attract younger people to become ag producers. We need to
9 make sure in Colorado that the water continues to flow to
10 our farms. Because that's going to provide a great future
11 for all of us in Agriculture. And, therefore, we need to
12 go ahead and build projects like the Northern Integrated
13 Supply Project.

14 And I would just like to say we need to dam Le
15 Poudre and store it in Glade Reservoir. This is one of
16 the great new water products that is currently being
17 studied here near Fort Collins, and it needs to go ahead
18 and get government approval. And we need to make sure
19 that the government doesn't overregulate production
20 agriculture that will lead to the importation of all of
21 our food needs from foreign countries if we don't back off
22 on cattle trade and try to back off on -- and increase our
23 EPA regulations.

24 So in closing, I'd just like to state one of
25 the things I commonly hear at these agriculture meetings,

1 and that is: In the next 50 years, we need to produce as
2 much food in the world as has been produced in the history
3 of the world. Thank you.

4 MR. LEGAN (phonetic): Good afternoon. My
5 name is Mark Legan. I'm a first-generation independent
6 farmer from Coatesville, Indiana. And 21 years ago when
7 I -- my wife and I started this deal, I was a beginning
8 young farmer. I guess when we started, we were -- ran 120
9 sows 50-50 with another family and formed 200 acres. One
10 thing that we surely appreciate have been the
11 opportunities we've had the last 21 years. Today we run a
12 2,400-sow operation and farm 1,000 acres. But we've
13 always looked for opportunities to survive, whether those
14 be to partner with other growers in the area.

15 On the crops or the livestock area, we've used
16 production contracts with some of the neighbors to finish
17 out pigs for us in the past, and we've also used marketing
18 contracts as well. And when I think of our crop and
19 livestock farms or operations today, we have a lot more
20 opportunities on the livestock side of our farm to manage
21 risk than we do with the livestock. So I'm looking for
22 any way to help manage risk more with the livestock. And
23 certainly, these contracts allowed us to do it.

24 The thing that's been pointed out earlier but
25 I want to reiterate, pork production contracts, by and

1 large, are much different than poultry contracts. I don't
2 think you can paint us all with the same brush. We need
3 competition in the marketplace. We need transparency; the
4 importance of mandatory price reporting. Am I concerned
5 about the thinning traded-spot market? Yes. Is it
6 working? I believe it is for now. I also believe that we
7 as producers can innovate well enough so that when we feel
8 it's not working, we can make the changes. And part of
9 the new mandatory price reporting deals with wholesale
10 cuts of pork. And I think that would be one thing to get
11 us there.

12 In conclusion, then, I would encourage
13 GIPSA -- and I'm sorry Mr. Butler had to step out -- but I
14 would encourage GIPSA to pull the rule back and deal with
15 the five issues that the 2008 Farm Bill required. Thank
16 you.

17 MR. BEASLEY (phonetic): I'm Jeff Beasley.
18 I'm a fourth-generation beef producer from Illinois. And
19 we cover all segments: cow-calf, register and commercial,
20 stocker cattle, backgrounding and finishing. We're one of
21 the little guys too. We may run a few thousand head
22 through our operation a year, but I consider that the
23 little guy.

24 One thing is sure. These rules that are being
25 proposed are vague and ambiguous, and that's cause for

1 concern for a lot of people. I think that's why we're a
2 little bit tentative about this. One thing I do know is
3 if I want to enter into an agreement with a contract or
4 some sort of marketing arrangement, I should be able to do
5 so on my own volition without any government's
6 intervention or oversight.

7 We talked about pricing. We have three
8 packers with us in our yard all the time bidding on
9 cattle. We feel like we're getting competitive pricing,
10 and we're very happy with that. We also talked some -- or
11 heard about price discrimination. If I could do a better
12 job of negotiating a selling price for my cattle, if I do
13 a better job marketing -- promoting my cattle for sale or
14 if I produce a product -- a calf that the packer wants
15 more than someone else's, then I've done a good job. If
16 my neighbor does that over me, he's done a good job. I
17 need to do a better job to improve my bottom line.

18 We've tried to work with some area producers
19 to market our cattle together, feed our cattle together;
20 whatever the case may be. It is hard to get people to
21 change. If they don't want to, that's understandable.
22 But what I hear a lot of today is, I don't -- some people
23 don't want the change, however they want to tear down the
24 other guy who may be trying to be innovative and do a
25 better job in marketing his cattle.

1 Another thing I want to say quickly, is the
2 packer is a business. Like any other business, he has to
3 make money for his shareholders. We need to be thankful
4 for the packers, in a sense, because we have the raw
5 products that we need them to buy. And as part of the
6 group that once tried to buy a small regional packing
7 house in a co-op with a bunch of other producers, it is
8 not easy to make this work because of overhead, government
9 regulations, et cetera. It's just not that easy.

10 So my final comment is I would ask that GIPSA
11 pull back the proposed rule changes and just enforce PSA
12 as it is. Thank you.

13 MR. SCHULTZ (phonetic): Thank you. My name
14 is Mike Schultz from Northwest Kansas, cow-calf producer.
15 We're a heifer development deal. I've been involved in
16 agriculture most of my life.

17 A couple of things. I want to offer a
18 solution, I guess. You know, you listen to everybody.
19 Yeah, I've got one bidder, two bidders, three bidders,
20 four bidders. Maybe they do; maybe they don't. I don't
21 think so. But I will tell you the solution, and it's very
22 easy. They can keep their captive cattle for the people
23 who want to do their little niche program and all that.
24 And all we have to do is ban packer ownership, and then we
25 create a more competitive environment for everybody.

1 Because without them trading the cattle and
2 doing it behind closed doors -- they don't own any of them
3 and get the best from our feedyards. Now look at what
4 we've got. And everybody will benefit and will change
5 this thing. You have to ban packer ownership. Thank you.

6 MR. DICKLETT (phonetic): Jim Dicklett,
7 Nebraska, drug-free cattle feeder, rancher, and company
8 rep. There's a lot of issues that are being addressed
9 today. I want to get into the GIPSA program. I think
10 there's great minds in line. I feel -- I trust, Dudley,
11 you, if you pass these laws, you'll initiate those as best
12 you can.

13 What concerns me is some of the laws that we
14 have in our grading system now because of the inspectors
15 we have in our packing plants are not inspecting the
16 cattle grading them properly. I've had one yard of cattle
17 from two different plants graded differently and it's cost
18 me \$50. In that yard, a difference in the greater -- the
19 better-quality cattle is bringing in less money than the
20 lower-quality cattle. It's just because of the graders
21 and their system.

22 Secretary Milsap (sic) this morning asked what
23 they could do -- what the government could do to bring
24 younger people back to the farm and ranches. I say change
25 our tax system. If generations of -- an older generation

1 wants to sell to an individual -- a young individual, he
2 should not pay any capital gains if he sells that land
3 below market value -- below the assessed value. And if he
4 finances that ranch or farm, that he not pay any taxes on
5 that financing or the interest that he charges will keep
6 the dollars back on the farm or back in the real
7 communities.

8 Another thing I'd like to see is our commodity
9 markets. How many bankers who loan money to the
10 individual to get into the farming and ranchers leave only
11 10 percent down? I can get into the commodity markets --
12 corn, cattle, whatever -- if I just put 10 percent down
13 and go to the commodity board and buy cattle. I think
14 this is wrong. It creates a very lucrative -- or an
15 unlucrative situation for the cattle market, and it does
16 not calm the markets any. It creates a great fluctuation
17 in the market.

18 And I think the funds that are out there that
19 are getting into our markets on less money are causing
20 this problem. If they were charged more to get into that
21 market, I think we'd have a better market and the market
22 would change, be less active. Thank you.

23 MR. LEIGHTENBERG (phonetic): My name is Fred
24 Leightenberg from Corsica, South Dakota. In 1996, our
25 family farm was given the opportunity to expand our hog

1 finishing operation. We signed a production contract with
2 Murphy Family Farms to raise pigs in a 3,000-head feeder
3 pig finishing site. In 2006, we again stepped forward and
4 purchased another 3,300-head finishing site and signed new
5 contracts for pork production with Murphy Brown.

6 We are looking forward to another new set of
7 contracts to sign as we are upgrading both our facilities
8 to operate them as wheat-to-finish. These contracts have
9 had a very positive impact on our operation. In 2005, we
10 were honored with the South Dakota Master Pork Producer
11 award, and in 2008 the South Dakota Pork Environment
12 Stewardship Award.

13 These new regulations might make sense if the
14 current system doesn't work. But the majority of
15 producers are happy with the way our contracts operate,
16 protecting us from the wild swings in the livestock and
17 grain markets. These new regulations also give the packer
18 no incentive to continue to work with producers at all.
19 Instead, they can go to using all company-owned livestock,
20 eliminate competition from the existing producers, and
21 increase the vertical integration.

22 I ask USDA to step back, let the producers
23 decide what is best for their operation, let the packers
24 process and market the products, and let the consumers
25 purchase the finished foods they wish to consume. After

1 all, isn't that what free enterprise is all about in our
2 great United States of America? Thank you.

3 MR. PHIPPS (phonetic): I'm Bobby Phipps from
4 Arnold, Missouri. I'm with the Ozarks Property Rights
5 Congress. And I -- it's been fighting the -- against the
6 check-off dollar and the premise ID and emblem ID. One of
7 the reasons is because it's government controlled. Look
8 where our dollar is going; to the government. Who is
9 trying to get our premises? The Government. Now I'll
10 tell you the reasons why and who controls it.

11 Now then, the synonym for premises means
12 convince a property from one person to another or
13 corporation. Who in the hell runs the USDA in Washington,
14 D.C.? Corporations or any farmers? All right. Now then,
15 I went to two meetings where we've had -- the state of
16 Missouri said, Hey, we need to have it voluntary. But it
17 wasn't really voluntary.

18 And I proved it to one man. Because I asked
19 him -- I said, How many acres have you got? He said, Oh,
20 about 400 acres. I said, Well, would you put your
21 property up for collateral if someone in state of Missouri
22 here loses their property if they sign up for their
23 premises or would not sign their property up for premises?
24 You lose your property and he does too. No, they can't.
25 I said, Then it's not voluntarily, then, is it?

1 The same thing they -- all right. He said,
2 We'll just -- we've got legislature to pass in the state
3 Missouri where it's only going to be -- it's going to be
4 mandatory only. Now then, the surrounding states are
5 trying to get passed what's called corporate agreement.
6 And I know Arkansas has been doing it, two -- what I call
7 corporate agreement -- two premise IDs. And the
8 premise -- who is pushing the premises? These corporate
9 multi-corporations in Arkansas; the chicken farmers, and
10 the hog farmers, and the cattle farmers.

11 Now then, who is the premises? Does the
12 premises -- we tried to get the word "premises" changed in
13 Washington, D.C., and Jefferson City. The premises --
14 nobody owns that premises. That's one way we try to get
15 the property changed from premise ID to property ID. We
16 cannot. We couldn't. Still, yet, our government says
17 we're going to have beef check-off that's been extorted
18 and our premise ID is going to be extorted. And this is
19 the way the packers -- our corporate -- model corporation
20 will take over the farms. I'm sorry. But I've had enough
21 of government control. Thank you.

22 MR. FERRELL: I just have one quick comment.
23 I just want to let everyone know that the buses will stop
24 running at seven o'clock. So I just want to make sure
25 you're aware of that.

1 I think we'll go ahead and allow the folks who
2 are at the microphone right now to finish up. We'll put
3 up another page of numbers. But we will take a ten-minute
4 break first so that way, our court reporter can let her
5 fingers heal for a moment.

6 And with that, we will start over here.

7 MR. BEEDEN (phonetic) Hi. My name is Jim
8 Beeden. I'm from Hamilton, Montana. A lot of you folks
9 enjoy something that we don't. We market pigs to four
10 different locations. We have to ship between 6 and 1,200
11 miles.

12 I'm very concerned about the GIPSA program
13 because it could affect our marketing association greatly.
14 I represent 23 producers in Montana. And with the GIPSA,
15 the way it's written, we market pigs from 8 pounds to sows
16 600 pounds. With GIPSA, we would not be able to represent
17 our people and ship the pigs to the places that they need
18 to be shipped, the way it is worded today.

19 It would be devastating to our -- the state of
20 Montana. We're a small business with \$24 million to \$30
21 million a year. But if you look at the size of our state
22 and the income that that brings in, it is huge to us. It
23 is very, very important that you take this very, very
24 seriously and you look at it.

25 And as far as -- you know, I've heard a lot of

1 things today and some things that -- you know, a lot of
2 in-fighting and stuff like that, like the packers are the
3 bad guys. Without the packers that we have established
4 contracts with, Montana could not produce pigs. With the
5 way that our contracts are, we get premiums for raising
6 them. That helps us ship them the distance that are
7 there. So please look at this very closely. This is
8 going to affect a lot of people. Montana hog marketing
9 does not support GIPSA as it is written now because it
10 would be devastating to our industry. Thank you.

11 MR. BURGIS (phonetic): My name is Brock
12 Burgis. My wife and I operate a backgrounding
13 reconditioning operation in Central Oklahoma. My wife and
14 I kind of started out in a unique way. We did not marry
15 or inherit any kind of operation, which started out small.
16 We were kind of the middle guy going between -- leasing
17 ranches and customer cattle. And as we grew and our
18 program grew, we eventually were able to purchase the real
19 estate and we still stayed in the customer contract
20 business.

21 And as our industries fall, because we have
22 evolved as a business ourselves, that became a
23 nonprofitable business simply because the operating inputs
24 increased, our customer base was shrinking. It is no
25 longer a viable operation. And when all that took place,

1 one day, my wife and I woke up and we said, Well, it looks
2 like we're going to be forced to sell. We'd been in
3 business a little over 17 years. That's a hard thing to
4 swallow.

5 That's when an opportunity to work with the
6 pre-owned industry program and the lines that they had
7 developed was presented to us. When that opportunity
8 arose, we were kind of leery. But at first, as we got to
9 know the operation, what it was and how it was set up, it
10 has been a life-changing experience for us. It turned our
11 operation around 360 degrees and is profitable. We can
12 actually look and think about growth again at this point.

13 My hat goes off to the people who designed the
14 alliance they have. These people have been designing one
15 year, two years. They've been working on this project for
16 13-plus years. Somebody had a vision. Somebody took the
17 time and the effort to make that vision come to reality.
18 When they did that, they started out with the customer.
19 They wanted to find out what the customer wanted. And
20 that's what we all here in this room need to do.

21 Because if we don't have the customer, we
22 don't have anything for anybody to sell on the market.
23 When they find out what the customer wants, they build a
24 program that everybody profits, all the way from the
25 customer all the way back down to the grower. The packer,

1 the feeder, everybody profits in this operation. And
2 that's the only operation we've ever been involved with.

3 There's been a lot of talk today about young
4 people not having an opportunity. There's opportunity out
5 there for young people. You've got to be willing to
6 change, you've got to be looking for opportunity, and
7 you've got to be aggressive if you're going to stay afloat
8 in this type of environment and industry. Thank you.

9 MR. OLDFORD (phonetic): My name is Ed Oldford
10 from Milford Colony, Montana. Several to 232 families
11 make up the Milford Colony, and farming and hogs are our
12 way of life. We recently built a 700-sow growth to market
13 going into Yosemite Meats in California for a niche
14 market. With this GIPSA rule, the contract would not have
15 been read. We tried to get a loan from Farm Credit.
16 Without the contract, we couldn't have built the barn.
17 Please, the GIPSA rule will hurt Montana. Thank you.

18 MS. SUSHER (phonetic): Good afternoon. And
19 thank you for coming all the way to Colorado. My name is
20 Margaret Susher. I am a rancher out there in the
21 northeast corner of Colorado where the sand hills come out
22 of Nebraska over the Oglala area.

23 My dad raised six girls on that ranch with a
24 500-cow operation. I've been trying to take it over and
25 there no way I could raise my risk kids without outside

1 income. The work out there to small family farms and
2 ranchers is the off-farm income we have to get -- often
3 two and three jobs -- and you your kids to work as soon as
4 you can.

5 Many years ago, I cochaired the committee --
6 the Small Farm Advisory Committee under Secretary
7 Glickman. Prior to that, there was a Small Farm
8 Commission report. You have within your arsenal the facts
9 and the documentation to do what you need to do. We just
10 have the political will anymore that we lack to enforce
11 laws.

12 Volume-based buying and selling exist and it
13 existed for decades. I've been a bookbooker in about
14 every kind of business in rural America in my town there
15 is. When a big operator gets to buy his seed or his input
16 cheaper than me because he's buying on such a large scale,
17 and at the same time he gets to sell because he's selling
18 at a large scale, that's something I could never do
19 because I won't be as big as he is. Whether it's corn,
20 whether it's cattle, whether it's pork; whatever.

21 I started my activism fighting pork and hog
22 farms that located near my ranch. The environmental costs
23 they displaced on my rural community because environmental
24 laws -- they were often zipped up or they're not in
25 force -- displaces on the taxpayer and the neighbor. If

1 we would start enforcing laws that are on the books and we
2 would find people with the backbone to enforce those laws,
3 use the tools that people like me bring forth.

4 I drove to Grand Island, Nebraska, 4 1/2 hours
5 for five minutes to counteract the beef packer who said,
6 I've got to have that feedlot in Greeley, Colorado, to
7 supply my chain; I don't want to ship the cows three hours
8 a way; that's an extra cost. He has a big feedlot in Yuma
9 County. Had I not testified, they wouldn't have known
10 that. Why is the price difference in his ownership of his
11 cattle in Yuma County any different than if he went and
12 bought it from the small independent feedlots? So they're
13 now going out of business or they've got to have contracts
14 in place to ship their cattle.

15 I used to feed one or two pens a year with my
16 dad. We would get three, four, five bids every little bit
17 constantly. Now we get one bid one day a week for 15
18 minutes. Take it or leave it. That is market control,
19 people. And you've heard it and you've heard it and
20 you've heard it. We don't want special treatment. We
21 want to operate in the cash market which sets the basis
22 for those other people. It doesn't take rocket science to
23 figure it out.

24 I've testified on the Hill. I've testified in
25 the state. I've traveled all over, often at my own

1 expense. And I finally got a job to be an environmental
2 consultant. I will shoot from within because I'm not
3 going to set at the people -- at the same table as those
4 people who are displacing their costs on me when I am the
5 best root of my land. And those controlled, confined
6 operations are displacing their costs on me. Thank you
7 for your time.

8 MR. KLOUCEK: Good evening. Frank Kloucek,
9 senator from South Dakota. My best to you. I bring you a
10 greeting. I'm asking you to be like Teddy Roosevelt who
11 speaks often and carries a big stick. And you have the
12 power to do that by adopting these GIPSA rules,
13 strengthening the mandatory price reporting and banning
14 packer ownership. It needs to happen. The people here
15 today overwhelmingly supported the GIPSA rules.

16 The sad thing is -- there's a gentleman named
17 Jerry Litton, and he's a congressman from Missouri. He
18 said, Happy are those who dream dreams and pay the price
19 for making them come true. And many of these people here
20 today have paid that price, either through discriminatory
21 pricing, contract growers, or just on the open market.

22 Our families experienced it. We were told,
23 Sell your sows for \$0.07 a pound or we will not have a bid
24 on them tomorrow; we will take them off your hands.
25 That's exactly what they did. Chicken growers --

1 contracts were offered to my family. Three -- three years
2 later, the people that took those contracts were broke.

3 And then the gentleman that spoke earlier with
4 the Murphy contract, I could write a book about that.
5 There are people that have gotten it, but it's a survival
6 mode with the Murphy contracts. And Fred did a tremendous
7 job, but so many of my friends have gone break under them
8 same contracts. Iowa, the attorney general had a whole
9 page devoted to the contracts and what to watch out for
10 such as the ledger contracts. So they've weeded us out,
11 and they get the most efficient, and they get them to work
12 for peanuts. And we're losing rural America as a result.

13 I ask you to be bold. Adopt the GIPSA rules.
14 There's an exception when there's some people complaining
15 about it. Allow them to own the packing plant as a
16 cooperative -- not as a corporate entity, but as a
17 cooperative, and then sell the marketing through the
18 cooperative thing. Use that as an exception, as a
19 possible idea for your allowing some of these rules to be
20 molded to make them work.

21 This is the first time since Teddy Roosevelt
22 was in that we have a chance to do something that goes
23 beyond what we've seen here today. And you gentlemen and
24 ladies have that opportunity. And I hope that we can make
25 this not just for our farmers, but for our consumers, for

1 the packers, and for the people that live in our great
2 country. Thank you very much.

3 MR. NOLAN: My name is Jack Nolan. I ranch
4 with my wife and my two sons and their wives in Southeast
5 Montana on land that was homesteaded by my
6 great-grandparents.

7 I want to thank you, Mr. Butler, for trying to
8 address a problem that we all are aware of. I can't
9 imagine the amount of people that are here that are
10 apparently satisfied to carry on this -- the decline that
11 we've all acknowledged. I salute you for trying to do
12 something about that. I believe that if people are truly
13 offering a superior product, they should be first in line
14 to demand an open and fair market. Why are they not?
15 I got -- that's a question that I think we have to answer.

16 Exports -- we've heard a little about exports
17 off and on today. Why are we even talking about it? We
18 live in the greatest consuming market in the world.
19 Exports, it's great. If we get all our people fed and we
20 have leftover food, then we could export. Our calves --
21 today we could hear some people talking about a premium --
22 they've got a premium. Maybe they got \$1.40 for some
23 calves. Our calves should be bringing in \$2 to \$3 a pound
24 for keeping up with the rest of society, and we wouldn't
25 be sitting here curling about a \$0.10 premium.

1 One other thing was touched on today. What
2 could we do about retaining our young people in our
3 communities in rural America? And the question was:
4 Could the government do more? I think the government's
5 doing a lot in that regard already. It has to be
6 attractive for the young people to be here. If it's a
7 vibrant industry, they're going to be here and they're
8 going to be happy to be here. Thank you.

9 MR. FERRELL: I think we'll now take a
10 ten-minute break and then reassemble in ten minutes.
11 Thank you.

12 (A recess was taken from 6:13 p.m. until
13 6:27 p.m.)

14 MR. FERRELL: Well, it looks like it kind of
15 cleared out a little bit. I think what I'll just say here
16 is we can -- if there's a few folks here that still
17 haven't commented, go ahead and come to the mike up front.
18 If you do, I ask that you go to the microphone closest to
19 the court reporter so she can hear better. If not, I
20 would just -- do we just kind of move forward with
21 closing -- with some closing remarks here?

22 Well, I guess with that, I will just say I
23 want to -- just for the record, I want to thank all the
24 panelists and the people that came here today and provided
25 their comments and their input. I think -- you know, I

1 will say that it's been very beneficial and helpful to us.
2 And I thank Colorado State University for being so helpful
3 to us and you -- allowing us to use this facility and, you
4 know, doing whatever we asked to try to help accommodate
5 and to make this workshop successful.

6 I'd also to thank our sign language
7 interpreter and our court reporter for sticking with us
8 and doing all the hard work that they've done today. As
9 the secretary stated earlier today, that any of the
10 comments that were made as a part of the Farm Bill GIPSA
11 rule will be made part of the rule comments. So if
12 there's any doubt or question about that, it will be part
13 of the record. And I just would like to state that our
14 last workshop will be held on December 8th, and it will be
15 the last and final workshop that we will work on. And I
16 will turn it over to DOJ if you have any last-minute
17 comments.

18 MR. TOBEY: I would reiterate what John has
19 said; thank everyone for coming here from long distances
20 and from nearby. You know, please continue to engage in
21 this dialogue with our agencies. And all of the material
22 that we've received today will eventually be put on the
23 Web site, both a video transcript and a printed
24 transcript. And, you know, thank you very much again, and
25 come to Washington in December.

1 MR. FERRELL: Thank you.

2 (The proceedings were concluded at 6:29 p.m.,
3 on Friday, August 27, 2010.)

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REPORTER'S CERTIFICATE

I, Wendy Evangelista, Registered Professional Reporter and Notary Public in and for the State of Colorado, do hereby certify that said proceedings were taken in shorthand by me at the time and place hereinabove set forth and was thereafter reduced to typewritten form under my supervision, as per the foregoing transcript; that the same is a full, true, and correct transcription of my shorthand notes then and there taken.

I further certify that I am not related to, employed by, nor counsel for any of the parties or attorneys herein, nor otherwise interested in the event of the within action.

My commission expires August 12, 2012; and I have hereunto set my hand September 3, 2010.

Registered Professional Reporter
and
Notary Public