The State of Livestock in America

Written Testimony of

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Chairwoman Stabenow, Ranking Member Roberts and members of the committee. Thank you for giving me the opportunity to testify before your committee today. The issues I will address are of utmost importance to the U.S. beef industry and especially to U.S. Premium Beef, LLC (USPB) and its producer owners. I am honored to be asked to represent cattlemen and women who have committed their livelihood to producing the safest, highest quality beef available anywhere in the world.

Let me begin by stating that I am a fifth generation beef producer whose father, brother and nephew continue to be actively engaged in the production of beef cattle. In addition, I am CEO of U.S. Premium Beef, LLC, a relatively young company we founded in 1996, but which is now the majority owner of National Beef. The intent of our founding members was to create a company that would link producers and consumers through the ownership of beef processing and marketing. This is a unique concept on such a significant scale. USPB is owned by more than 460 beef producers from 30 states. We have had more than 2,100 producers from 36 states market cattle on our company's value-based payment grids. In total, through fiscal year 2010, we have purchased more than 8 million head of cattle from those producers and paid them more than $183 million in premiums above what the cash market would have paid them because of the quality of cattle they delivered. USPB essentially designs meat and meals by enabling communications from consumers back to producers in the form of payment incentives to produce the quality of beef consumers want to buy.

Also through 2010, we have paid our producers and owners more than $320 million in patronage and cash distributions, which were derived primarily from our ownership of beef processing. This is another benefit to our owners and producers for producing what our consumers want. USPB has proven to the industry that grass roots producers, when provided the means to achieve targeted incentives, will do so. The carcass data we provide on every single head delivered to our plants enables producers to learn what they are doing well, and where they need to consider improvements.

It's not surprising then that I believe we are living in times filled with perhaps the greatest opportunities ever offered to U.S. beef producers and the beef industry as a whole. Last year, based on data from Cattle-Fax, a beef industry consulting and advisory firm, all segments of the beef industry, from the cow-calf producers to cattle feeders and beef processors, were profitable realizing a combined $172.00 per head profit. Of that total, $135 per head was realized by beef producers. In fact, for much of the last decade, most segments have shown profit averaging a combined $89.03 per head profit per year, of which $77 was the producers' average per head profit per year. As the committee looks to the future, I believe there are two critical issues facing the industry's future: trade and the proposed GIPSA rule.

Much of our success in 2010 and in the future was, and will continue to be, tied to our export markets. Last year, our industry set a record for value of beef and beef variety meat exports of $4.08 billion according the U.S. Meat Export Federation (USMEF). That equated to an additional $153.09 per steer and heifer finished in the United States last year. I believe it is important to note here that by volume, our country's beef exports were only 84 percent of the record 2003 volume before a single cow with bovine spongiform encephalopathy (BSE) was found in the state of Washington. There is still much work to do to have all countries agree to free and fair trade practices that are based on internationally accepted science-based standards. In 2011, through April, exports equated to $190.80 per steer and heifer finished in this country. That is 13.7 percent of our total U.S. beef production so far this year. We are again on a record pace by value. Ninety-six percent of the world's population lives outside of the United States. I believe our success in exporting beef, especially given the uneven playing field we are handcuffed with, says clearly that the world's consumers want our beef.

Given the international consumer demand for our products, it is critically important that Congress passes the Free Trade Agreements (FTA) with South Korea, Colombia and Panama as soon as possible and that we reach an agreement with Japan to move from the current less than 21 month cattle age limit to at least 30 months of age. Increasing the age of beef products from finished cattle eligible for export to Japan to 30 months will greatly expand the number of cattle which meet the criteria for export, thus resulting in increased profit opportunities to the beef industry.

Let's look at the impacts of the FTA with South Korea first. According to the U.S. International Trade Commission, yearly exports of U.S. beef to South Korea could increase to as much as $1.8 billion when the annual duty on beef is taken from the current 40 percent to zero, and on beef variety meats from 18 percent to zero over the proposed 15 year time period. In 2010, U.S. beef exports to South Korea were valued at $518 million which was a 140 percent increase over 2009 levels. South Korea is now our second largest export market, on a value basis, behind only Mexico. USMEF data indicates that during the first fourth months of 2011, U.S. beef exports to South Korea was up another 150 percent compared to the same time period in 2010. These numbers support the fact that South Korean consumers want U.S. beef. Without the South Korea FTA, the U.S. will lose market share to our competitors, including Australia. South Korea already has FTAs with the 10 country ASEAN group, the European Union, India, Peru and Singapore and is considering FTAs with China, Canada, Mexico, Japan, Australia and New Zealand. Most of these countries compete with the United States for South Korea's agriculture import markets. Without an FTA, our share of that 49 million consumer market will decline as South Korea increases trade with countries that it has FTAs with.

USPB also supports passage of the FTA with Colombia. Colombia currently imposes up to 80 percent duties on U.S. beef imports which is one of the highest tariffs U.S. beef faces anywhere in the world. In 2010, U.S. beef imports were valued at $1.9 million according to USMEF. If the current duties went to zero over 10 years, as outlined in the proposed FTA, USMEF predicts U.S. beef exports would increase to $30 million annually. Implementation of the FTA with Colombia would put U.S. beef in a competitive position with imports from Brazil and Argentina into that country for the first time.

Regarding the FTA with Panama. Panama has modified its import requirements related to BSE to be consistent with international standards. Under the FTA, the 30 percent duty on high quality U.S. beef (Choice and Prime) would end immediately and would be phased out over 15 years on all other muscle cuts. On beef variety meats, the current duty of 15 percent would be eliminated over 0 to 5 years. USMEF projects that implementation of the Panama FTA would result in annual beef exports to that country totaling $5.5 million compared to $3.6 million in 2010. If the FTAs with Colombia and Panama were in place, the United States would have free trade for U.S. beef with approximately two-thirds of the population in the Western Hemisphere.

In addition to these three important FTAs, I am compelled to speak to the continuing trade barriers that we face with numerous countries around the world which are not based on internationally recognized science-based standards. Japan is an excellent example. Historically, it was the leading export market for U.S. beef on a value basis. In 2010, the U.S. exported $640 million in U.S. beef to Japan. This was far short of pre-BSE levels of $1.4 billion in 2003, due to Japan's age restriction, which is not based on internationally recognized sound science. Japan relaxed its restrictions somewhat in 2006 when it opened its market to U.S. beef from cattle less than 21 months of age, but to date we have only recovered roughly half of the value of exports in 2003. USMEF predicts that if Japan followed internationally accepted guidelines, we would again export more than $1 billion of beef to that country annually. As a leading exporter of both fresh chilled and frozen beef to Japan, USPB's producer-owners and the producers who market their cattle through our company would directly benefit from having greater access to the Japanese market. As mentioned, the 21 month cattle age limit should move to at least 30 months of age.

The same can be said for access into China and Taiwan. Neither country uses internationally recognized science-based standards as they relate to the imports of U.S. beef. The Chinese market remains closed to all U.S. beef exports resulting in annual lost trade that USMEF conservatively estimates at $200 million a year. With a middle class population exceeding 300 million people, the potential for exporting beef to China is staggering.

From our perspective we place the highest priority to expanding our access to both of these markets as soon as possible. Australia has captured much of the market share the U.S. lost when Japan closed its borders to U.S. beef, but Japanese consumer demand for our product is stronger than ever and we believe that the United States will quickly recover a significant share of the market when Japan further relaxes its import restrictions. Similarly, the economic transformation that has occurred in China since 2003 has created significant new opportunities for U.S. beef. When China reopens its market, we expect to ship the same value-added beef cuts there that we currently export to other North Asian markets like Japan and Korea.

Taiwan was the fifth leading importer of U.S. beef in 2010, purchasing more than $216 million worth of U.S. beef. While this was a 53 percent increase from 2009 levels, we believe it is far below what could be marketed into that country under internationally recognized science-based standards.

Also, regarding the importance of trade with international markets, we ask your assistance and guidance in developing a more stream lined approach within USDA to coordinate our efforts in dealing with these challenges. While much of our focus in the arena of trade is correctly placed on the passage of new and pending free trade agreements, we must place an equal amount of importance on the maintenance of commercial trade flows once markets are opened. Increasingly, livestock exports are imperiled by foreign trade barriers that require direct government-to-government intervention for resolution. In addition, USDA's current organizational structure can create challenges as several agencies are, in theory, responsible for trade. The Food Safety Inspection Service, Animal and Plant Health Inspection Service, and Foreign Agricutural Service each have different but related responsibilities in the area of trade depending on the specific situation.

For example, a simple residue issue in beef products may require the input of all three agencies and the United States Trade Representative to achieve resolution. Given the required involvement of different agencies with different policy mandates, the result can be an extended lack of access to critical foreign markets while an issue is resolved both within our government and between our government and the foreign government customer. Often, the justification for plant de-listments and other trade disruptions contradict the spirit of negotiated agreements, but the lack of a streamlined system for resolving these commercial trade disruptions leaves our industry vulnerable to sustained periods of limited access to or outright bans from critical markets. It is vitally important that the Committee encourage USDA to place an equal amount of importance on both the opening of new markets and the maintenance of existing markets and develop a more streamlined coordinated structure. In the end, an agreement with an international trading partner is only valuable if it results in meaningful, consistent and predictable access.

I would like to raise concerns regarding the proposed GIPSA livestock marketing rule, as it relates to the producer/owners of USPB. I believe the authors of the proposed rule do not intend to harm the U.S. beef industry or smaller cattle producers and processors. However, I do have concerns that numerous aspects of this proposed rule will do just that. I will focus my comments primarily on two of my concerns.

<u>Written revenue and cost justification on pricing.</u> The proposed rule calls on USDA to scrutinize transactions where producers are paid more than an average price for their cattle. Due to our extensive value-based pricing system, this could be required on every lot of cattle our producer-owned processing company purchases from USPB's producers. A requirement to present private profit and loss information to a governmental agency in order to justify paying premiums above a government mandated justifiable price is very concerning. The USDA's scrutiny of individually negotiated private treaty transactions will have a chilling effect on existing and future specialized product categories that are beneficial to producers and consumers. At a minimum, it will serve to limit negotiations and narrow the range of prices paid. Worst case scenario, variable grid pricing on specialized product categories such as Quality grade, branded, natural and age and source verified could be replaced by a single, "utility" bid. The method used by the USDA to collect, monitor and administer such practices is critical, but to date, unclear.

We believe an unintended consequence of this part of the rule would be harmful to producers of all sizes, but especially damaging to the smaller producers that the proposed rule is purportedly designed to help. Our records show that producers of all sizes have benefited from USPB's value-based system. However, our smallest producers typically have earned the largest premiums per head.

Through fiscal year 2010, USPB has purchased more than 8.3 million head of cattle since beginning operations. Eighty-three percent of USPB deliverers ship less than 500 head per year.

In analyzing the top 25% of all the lots of USPB cattle delivered since we began operations, the group of producers with the highest average premium delivered less than 250 head per year, earning a premium of $63.48 per head. The second highest premium group consists of producers who delivered less than 100 head per year, with a premium of $62.92 per head.

Why would our government want to enact a rule that would be harmful to producers of any size but especially the smaller producers who it seemingly wants to protect? These smaller producers select genetics and implement management systems that will result in a higher percentage of their cattle hitting the targets consumers set with their checkbooks and they get paid more money for doing that. My speculation is that there is a belief on the part of the authors and proponents of this rule that only the big producers get top prices. I think producers of all sizes should have fair access to the marketplace. But our data shows that the proponents are wrong and this rule would in fact aid the larger producers at the disadvantage of the small producer. Why? Larger producers have economies of scale advantages therefore lower cost structures than small producers. Take value-based pricing systems away and it becomes more difficult for smaller producers to compete.

<u>Plaintiff's no longer required to provide proof of competitive harm or injury.</u> The second issue is one of lowering the legal threshold to successfully sue a processor. Proponents of the proposed rule believe that if a deal is not reached in the marketplace between a cattle producer and a processor, that producer should have the right to sue the processor and not have to meet the current threshold of proving harm to the marketplace, which is based on substantial legal precedent.

Long standing judicial precedent would be wiped away by the proposed rule. The defense of a justified preferential pricing could be significantly limited. The broad and general nature of the proposed rules creates the very real possibility for frivolous lawsuits. If producers can sue based on their thoughts of what is unfair, it is likely that price differentiation based on added value, quality characteristics will suffer and a return to commodity, one price fits all, "utility" pricing will result. If that happens, both producers and consumers, here and around the world will lose.

Proponents of the proposed rule have responded to these concerns by asserting that processors and others will get their chance to defend their practices in court. Madam Chairperson and members of the Committee, that answer is unacceptable. I don't know how you react to being sued, but being sued means not only that I don't sleep at night, but my employees don't sleep, my investors don't sleep, our bankers don't sleep and as importantly, our customers don't sleep because they all depend on us to make payroll, pay back loans and stock their shelves so that when the consumer walks through their doors, they are open for business. The increased threat of frivolous lawsuits that this proposed rule will create is a risk no business can withstand.

I would urge the Committee to advocate that a thorough economic analysis is completed on the impacts of the proposed rule and that, at the very least, another comment period is allowed to provide additional input on the rule in order to bring the necessary changes to minimize the damage it will cause to the U.S. beef industry.

Finally, I would like to offer the following observations as the committee begins deliberation on the 2012 Farm Bill.I would encourage the committee to take into account the current conditions when considering the needs of the livestock industry. I would urge the committee to defend and strengthen the U.S. beef industry's competitive advantage by opposing unwarranted and costly provisions and regulations.

In conclusion, producing cattle and beef is a tough way to make a living, but this is an exciting time with tremendous opportunities for beef producers. Producers should be applauded for taking cues from universities, federal and state agencies and most importantly the consumers to address the demand for a wide variety of safe, high quality products than can not only compete for the center of the plate in the U.S., but around the world. I would encourage the Committee to make sure we put ourselves in a position to compete for export business. At the same time, I'd ask that you scrutinize proposed government regulations that result in unintended consequences of rolling back the vast improvements our industry has made.

Thank you for this opportunity to testify before you today.