

Good afternoon, Mr. Chairman. I am David Petty and am a farmer and rancher and resident of Eldora, Iowa. I am a member of the National Cattlemen's Beef Association and am here today to provide testimony on behalf of cattle, dairy, swine, and poultry (broilers, layers and turkeys) - collectively referred to as "livestock" in this testimony. We are very grateful to you and the Members of this Subcommittee for holding this hearing and for this opportunity to provide you with our views on the implementation of the conservation title of the 2002 farm bill. We cannot stress enough just how important it is to our producer members for the conservation title to be implemented well and effectively, and we welcome your commitment to this objective.

We know the members of this subcommittee understand better than anyone the significant economic contribution that livestock producers make to the U.S. agricultural sector. Livestock receipts were slightly more than \$100 billion last year, and they consistently average 50% or more of total agricultural receipts. We are the single biggest customers for U.S. feed crop producers, and our single largest expense, by far, is the feed we purchase for our animals. Without a doubt, livestock agriculture is value added agriculture.

As you might expect, livestock agriculture is similarly important to the management of our nation's agricultural lands. According to USDA, in 2000, grassland pasture and range was the single largest land use in the country, accounting for 578 million acres, or 31 percent of the major land uses in the lower 48 states. Livestock operators also manage a substantial portion of the more than 300 million acres of land used for cropland. These statistics alone provide ample justification for a major and substantial federal investment in helping conserve the lands owned and operated by livestock and poultry producers.

Our associations and the producer members we represent worked very hard to secure an effective and well-funded conservation title of the 2002 Farm Bill. We very much appreciated the support that you and several members of this subcommittee provided to these programs. Our collective emphasis was on the Environmental Quality Incentives Program (EQIP), but the National Cattlemen's Beef Association also was and continue to be deeply supportive of and interested in the Grasslands Reserve Program (GRP). Many of those represented today also supported the Conservation Security Program (CSP) and continue to be very interested in the CSP program development in USDA that is underway today. The Farm and Ranchland Protection Program, Third-Party Service Providers, Technical Assistance are other issues of concern to us. Our comments today will focus on these programs and activities.

Environmental Quality Incentives Program

Livestock producers made it a top priority to work together during the 2002 Farm Bill process to ensure that the Environmental Quality Incentives Program (EQIP) was well-funded and structured so that it could be of real help to our operations. We believed that EQIP could be of enormous help to a large proportion of livestock producers. In particular, we were and continue to be seriously alarmed by the ongoing and new water and air quality regulatory requirements

being imposed on animal feeding operations (AFOs) and we very much wanted to ensure that EQIP would be used to help producers facing those challenges. Our producer members and many Members of Congress believed that the amendments made to EQIP in the 2002 Farm Bill sent a very clear and strong message that EQIP assistance must be made available for that purpose.

We understand that fiscal year 2003, the first full year after passage of a farm bill that substantially amended EQIP, represented a difficult transition period for the program. This was a challenge made even more difficult by both the appropriations cycle and the agency rulemaking process. Fiscal year 2003 appropriations were not finalized and signed into law until after almost half of the fiscal year was complete, delaying by several months USDA's Natural Resource Conservation Service's (NRCS) allocation of EQIP funds to the states. Adding to the delay and frustration, the EQIP rulemaking was not finalized until very late spring. Both of these factors meant that NRCS's state and local offices had only a few weeks to get trained, conduct final reviews and to approve contract applications.

Even though we recognize that these were difficult circumstances, our coalition of livestock and poultry groups are very troubled by the fact that inadequate EQIP financial assistance was provided to AFOs representing all of major livestock species. It is absolutely essential that in 2004 and beyond EQIP financial assistance reach all AFOs, and that this assistance be of real utility relative to the regulatory requirements being imposed on our producers.

We address several other specific EQIP concerns below.

Pooling EQIP Funds at the State Level for Animal Feeding Operations--In most states in 2003 NRCS placed all EQIP applications for assistance from AFOs into a single pool with all of the other applications. As a result, an AFO's need for assistance to meet a regulatory requirement was competing against other applications involving strictly erosion control, habitat development, pasture management, riparian management, and other sound natural resource needs that have little or nothing to do with the challenges critical to the AFOs.

There were some states in 2003 that took a different approach and pooled EQIP funds at the state level specifically for the purpose of addressing livestock applications for assistance. We believe that to the fullest extent possible, NRCS should set aside an adequate quantity of EQIP funds at the state level for the specific purpose of addressing AFO's needs for water and air quality protection assistance, particularly when producers need to adopt practices on the basis of current and emerging regulatory requirements.

Better Ranking Criteria for Producers Facing Regulatory Challenges--Many producers seeking EQIP's assistance with new regulatory challenges may have already done a good job of addressing certain of their operations' manure management issues important to water or air quality. Many livestock producers are finding that this past performance is penalizing them

now in the EQIP application review and approval process. In 2003 many livestock producers found their 2003 applications being denied because they had done a good job of conserving certain resources on their farms. This was the case even though one of EQIP's top purposes is to help producers meet new regulatory requirements.

Many of these producers have been counseled that their applications would fare better if their applications included erosion control or wildlife habitat objectives that are not directly related to the manure management regulatory requirement at hand. This is particularly troubling.

It is our view that EQIP's application ranking procedures must give substantial priority to helping a producer get water or air quality protection assistance to meet a regulatory requirement even if:

? They have already invested in a good waste management/land application system and/or good erosion control on their farm.

? Their application does not address erosion control objectives that are unrelated to the erosion control needs that are to be addressed to ensure sound manure management on their farm.

? Their application does not address wildlife habitat objectives that are unrelated, or at best, peripherally related to addressing their water or air resource conservation needs.

Comprehensive Nutrient Management Plans (CNMPs)--

Approximately 15,000 to 20,000 livestock producers nationwide will need to comply with the new confined AFOs feeding operation (CAFO) permit requirements under the Clean Water Act. The US Environmental Protection Agency has made it clear that the nutrient management elements of these permits can be fully addressed by something that NRCS has developed and calls a Comprehensive Nutrient Management Plan (CNMP). EQIP was specifically amended in the 2002 Farm Bill to make CNMPs a practice eligible for EQIP financial assistance. Beyond those operations subject to these permit requirements, there are tens of thousands of other AFOs that need and desire a CNMP. It is our view that EQIP, or some other appropriate program or authority available to NRCS, must be used to help every livestock producer that wants one get a CNMP. It is also our view and the view of many others that NRCS will have to draw heavily upon non-NRCS Technical Service Providers (TSPs) to get this CNMP work done.

Unfortunately, livestock producers received very little assistance from EQIP in 2003 for CNMPs. Several states did not create an explicit CNMP practice eligible for EQIP and instead expected producers to assemble a set of other EQIP eligible practices that collectively might constitute a CNMP without ever explaining to producers how this could or should be done. While other states did make a specific payment available to producers for a CNMP, this payment was not intended to cover the costs of using a TSP to prepare the CNMP. Producers were expected to find these TSPs themselves and then let NRCS compensate them -

unfortunately the TSP compensation rates (called Not-To Exceed or NTE Rates) that NRCS has said it is willing to pay are anywhere from 75% to 90% lower than what it costs to prepare a CNMP. As a result, and not unexpectedly, no credible TSP is willing to consider working on CNMPs at those rates.

We believe that NRCS should use whatever authorities and programs it can to provide direct assistance to livestock producers to get CNMPs. Full use must be made of TSPs qualified to do CNMP work in this effort, and payment rates for this work must accurately reflect the true costs involved. Rather than using TSP not-to-exceed (NTE) payment rates that were not designed nor ever intended to be used for establishing compensation rates for CNMP work, NRCS should instead retain TSPs directly under contract to provide CNMP assistance to producers, and let the normal contracting process establish payment rates that are appropriate and reflective of what the market can bear.

Cost-Share Assistance for "Mobile Equipment"--Certain mobile equipment provides the best, most effective and cost efficient means to help ensure that manure is used properly and to protect water and air quality. Unfortunately, mobile equipment is currently not eligible for EQIP cost-share assistance and this must be corrected.

One of the top challenges facing livestock producers is applying their manure to more land to ensure that the nutrients can be properly managed. This point has been driven home to all of us and to the general public by recent reports by USDA's Economic Research Service and NRCS, as well as statements by policy officials and regulators (including the recent CAFO rulemaking) and by the environmental community.

Pipes, pumps, and other manure transport equipment are essential tools to help producers access more land economically and in a timely and more safe manner. Manure and waste water injection technology is going to be part of such systems and will also prove critical to air quality-odor reduction efforts while also protecting erosion-reducing surface residue. All of this equipment is largely mobile in nature. Such items can be accounted for in any contract implementation review or oversight process used by NRCS and therefore at little risk of being removed from the farm.

Cost-share assistance as opposed to incentive payments is by far the simplest and most helpful means of helping producers acquire this equipment and is by far the most preferred method.

Higher Ranking For Air Quality and Odor Control Practices--Practices that protect air quality are a top environmental priority for many livestock producers. Many of these air quality systems work in many locations to provide significant odor control benefits as well. Several practices involving the use of biofilters are already part of NRCS conservation practice standards. It is critical that NRCS understand these systems and their importance to livestock

producers. EQIP applications seeking assistance to install these systems must be given a high priority.

Species-specific EQIP Application and Contract Data--NRCS has never before collected and reported information that breaks out by livestock species the EQIP applications they have received and the EQIP contracts approved. NRCS has now generated such information for 2003 on an ad hoc basis and that information has proved invaluable to helping us understand EQIP's performance in 2003. We appreciate this information and believe NRCS should treat collecting and reporting this information as simply a standard element of EQIP. When collecting and reporting EQIP information for each livestock species NRCS should include information on the numbers of applications, contracts and producer involved, the dollar values, the type of financial assistance, the resource concerns to be addressed and the conservation practices to be adopted.

Exclusion from Eligibility of Sectors of the Agriculture Industry--We are deeply concerned that the Department excludes custom feeders from eligibility for program participation. Custom operations have become an ever more important part of a diverse and complex agriculture operations. Custom feeding operations perform the exact same activity as do direct feeders and produce the exact same environmental effects. We had hoped and expected that EQIP would meet the actual environmental needs of production agriculture and that the Department would see its way clear through the complicated and interwoven regulations affecting these activities to support production agriculture.

Conservation Security Program

A number of members of the agriculture community were excited by the enactment of the Conservation Security Program as part of the 2002 Farm Bill. Other groups were leery of the new program, for fear that it would prop up inefficient producers and hurt the overall efficiency of the industry. Our overall goal is to create the regulatory and business environment in which our members can thrive and produce the food needed for America and the world. We will be particularly supportive of those aspects of CSP that promote the economic efficiency of producers.

Still, we all realize that CSP addressed a desire by some segments of society to reward producers who are good stewards of the land. Our intention is to work with the Department and Congress to make the program and the principles underlying it be the most effective in helping livestock producers and the American public.

We are concerned with the direction the program appears to be taking after reviewing the proposed rule recently issued by the Department. Some feel CSP as envisioned in the proposed rule provides so few benefits for producers that many have commented to us that the program will not be useable on the ground. We urge the Department to consider a significant rewrite of

the program in the final rule.

The program needs to be fixed in many ways, some of which are highlighted below:

Watershed Limitation

Last week's notice made it clear that NRCS plans to keep the restrictive watershed limitation it had originally proposed. The NRCS should heed the recommendation of thousands of comments in opposition to this part of the proposed rule and do away with it. With a fully funded program, a watershed limitation is not necessary. This is supposed to be a program which is available to producers nationwide. No reference was made in the law to giving preference to producers in a few "priority watersheds", except for enhanced payments made to producers who cooperate within a watershed. The watershed limitation severely and unnecessarily limits enrollment in the CSP and should be dropped.

Water and Soil Quality Requirements

NRCS should also do away with restrictive soil and water quality requirements. The proposed rule, and last week's notice, require that in order to be eligible to participate in the CSP, a producer must have already addressed significant water and soil quality concerns. Nothing in the statute requires that a producer must already meet criteria in order to participate. Part of the purpose of the CSP is to enable a producer to reach these minimum standards. To require that they already be met makes little sense and severely limits eligibility in the program.

We also are troubled by the priority placed on addressing soil and water quality concerns as a matter of policy. This priority will make it very difficult for producers to address environmental concerns important to livestock producers such as air quality. The CSP statute addresses ALL resource concerns in the FOTG, including soil, water, air, energy, plant and animal life, among others. The Department should implement the program in the same manner.

Feedlot Participation

The proposed rule limits the eligibility of feedlots to participate in the CSP. We urge the Department to treat all agricultural operations the same under the program.

Last week's notice restricted feedlot participation by excluding them from the definition of "eligible land uses" for prioritizing watersheds. This exclusion reduces the chance that watersheds with feedlots will be selected for participation even though these watersheds may present the most opportunities for environmental remediation.

In addition, the proposed rule prohibits feedlots from being included in the base payment. An underlying policy driving the CSP is for producers to be paid who voluntarily install conservation practices. If the NRCS wants and expects feedlots to adopt conservation practices, they should receive the same payments as everyone else, particularly now that a significant

national program sets payment for practices as the social norm. Excluding feedlots from base payment eligibility flies in the face of one of the central purposes of the CSP program.

Low Payment Structure

The very low payment structure under the proposed rule must be reconsidered. The low payments would be a huge disincentive to participation.

The purpose of the base payment envisioned in the law is to encourage producers to participate and reward them for their conservation efforts. The base payment is supposed to equal the national rental rate, or other appropriate rate to reflect local conditions, for land enrolled in the program. Unfortunately, the NRCS proposed to reduce the base payment down to ten percent of the rate in the statute.

In addition, the proposed rule proposes cost share payments that are less than EQIP. Given the low base payments and low cost share, it is hard to understand why a producer would choose to participate in the CSP program at all. It makes little sense for a producer to lock himself into a minimum five-year commitment for a program that pays less than other programs.

Other Concerns

Benchmark Inventory

Requiring producers to develop their own benchmark condition inventory may act as a disincentive for program participation. While some producers will be able to create the desired inventory, others will not. The Department should consider allowing third parties to conduct the benchmark if producers seek the help.

Periodic Sign-Up

The proposed rule provides for periodic sign-up for the CSP. We believe that the sign-up period should be continuous so that producers can sign up during a time that is convenient for them.

Grassland Reserve Program (GRP) and the Farm and Ranchland Protection Program (FRPP)

Landowners across the West and the Midwest are anticipating the release of the rule for the Grassland Reserve Program. Members of our groups were among the principle drivers behind the creation of the program during the last Farm Bill. A principle concern in supporting the program was to keep large grass landscapes intact for working ranches and biodiversity by providing an incentive to keep the land intact and not break it. It is widely recognized that the biggest threat to biodiversity is the conversion of landscapes out of natural and grass conditions. The relatively simple notion of keeping grass intact reflects the interest of our groups in seeing that program money get spent on the narrow, though critical, goal of the

program and not for ancillary activities.

We are concerned the Department is moving away from this basic concept in its implementation of the program. Moreover, we are concerned the Department is implementing the GRP and administering the FRPP in a way that is not sufficiently respectful of the rights of private landowners.

First, the NRCS requirement that a conservation plan be developed in conjunction with GRP contract and easements was considered and rejected by those who drafted the statute. The grass is either kept intact or not. Requiring the production of a conservation plan makes more sense in connection with the Conservation Security Program which explicitly contemplates implementation of progressive levels of conservation practices to meet ever more comprehensive resource threats. At a time when NRCS is concerned about whether it will have sufficient technical assistance dollars to pay for program implementation and its core conservation activity, we believe that production of conservation plans in connection with GRP contracts and easements is a particularly poor use of these funds, and not consistent with the spirit animating the program.

A key goal of the program as drafted was to extend the reach of conservation to producers who do not normally participate in programs. So the statute authorizes the Secretary of Agriculture to transfer ownership of program easements and contracts to qualified third party land trusts. The underlying issue is that a number of our producers are not comfortable selling an easement that will be held by the government. These producers would be more likely to enroll in the program if a non-federal entity owned the easement. Unfortunately, the Department somehow misconstrued this provision of the program and has barred ownership of program easements and contracts by third party land trusts. We seek remedial legislation to further clarify this issue.

With respect to the Farm and Ranchland Protection Program, we are concerned the program is not sufficiently sensitive to property owners. In particular, the Department lacks adequate procedures for notifying landowners when monitoring visits will be conducted on their property. Additionally, the Department lacks clear criteria for defining when the Department will assume an easement that had been held by a third party land trust.

We have been working with the Department on the Farm and Ranchland Protection Program issues and hope we will be able to reach a satisfactory resolution of the issues with them. We will also keep the Committee apprised of our progress on these matters.

Wildlife Habitat Incentives Program

Our community supported reauthorization of the WHIP to help our producers meet the regulatory burdens imposed by the Endangered Species Act. The Fish and Wildlife Service is in the process of deciding whether to list the sage grouse, which should it be listed would affect

land use in 11 states in the West. We applaud the efforts of NRCS to use WHIP in conjunction with many other federal and state efforts to help conserve sage grouse habitat and avoid the need to list the bird.

EQIP and Technical Assistance Costs

This coalition of livestock groups was dismayed and concerned over the disagreements about how the technical assistance costs of the conservation title's programs were to be paid. We were deeply concerned when it became apparent that funds were going to be diverted in fiscal year 2003 from EQIP, the GRP, the Wildlife Habitat Incentives Program (WHIP) and the Farm and Ranchland Protection Program (FRPP) to support the implementation of the Conservation Reserve Program (CRP) and Wetland Reserve Program (WRP). Unfortunately this situation persists in 2004 and anywhere from \$60 to \$110 and even more could be diverted from EQIP to pay for CRP and WRP technical costs every year of this farm bill. This is simply unacceptable given livestock producers and other farmers' needs for EQIP assistance.

We supported in 2003 and continue to support Congress taking action to correct this situation. We adhere to the principle that each of the 2002 Farm Bill conservation programs should pay for their own technical assistance (TA) costs. We do not support the use of funds from one set of farm bill conservation programs to pay for the TA of other farm bill conservation programs.

We were pleased to see that the Senate's 2004 Budget Resolution included a technical correction in the Budget Committee's baseline for the CRP and WRP to include the funds needed to pay their own technical assistance costs. We are supporting the inclusion of this provision in the Conference Committee's report on the Budget Resolution. If this occurs, we wholeheartedly support Congress passing subsequent authorizing legislation that would direct USDA to use those funds to pay for the CRP's and WRP's technical assistance costs.

Technical Service Providers (TSPs)

Livestock producers recognized in the 2002 Farm Bill debate that the scope, intensity and type of new conservation and environmental work was going to be more than the existing NRCS staff could handle. Just the sheer volume of work ensures that was the case, but also the skill sets necessary to do the work also meant that NRCS was going to have to conduct major new training programs for a significant number of new or existing employees, and/or NRCS would have to rely on non-NRCS technical service providers that already have these skills and capabilities. Nowhere was this more evident in the need for comprehensive nutrient management plans (CNMPs), but this concern was appropriate for several other technical areas including grass and pasture management, wildlife habitat establishment, as well as advanced nutrient and pesticide management. Livestock producers believed that budget and hiring realities meant that NRCS would have to put particular emphasis on the use of TSPs, and it was for these reasons that we supported the expansion of the TSP provisions in the farm bill and the added emphasis on their use.

The rulemaking implementing the TSP provisions provide considerable flexibility to NRCS in

finding appropriate and effective ways to make use of TSPs. But the rulemaking and subsequent implementation by NRCS in the States has placed primary emphasis on one particular approach - relying on producers to have an advance agreement with NRCS, and then locate an NRCS certified TSP of their choice to carry out a particular technical assistance task, pay that TSP for the service and then submit to the NRCS an invoice for the cost with supporting documentation. NRCS has apparently emphasized this approach out of an interest to introduce "market-like" forces and elements of competition into the process, and to provide producers with the maximum choice possible about the TSP they would be using.

While laudable objectives, we find the particular approach taken by the rulemaking and its implementation to be extremely cumbersome and unwieldy, creating far too much uncertainty and management costs of the producer, and in general unnecessarily complicating the entire process. Adding to this complexity has been NRCS's attempt to develop county-by-county specific "not-to-exceed" (NTE) payment rates for a broad array of technical services. Most producers and TSPs have found this system very difficult to understand and use, and as a result has significantly diminished or eliminated producers use of TSPs under this particular approach.

At the same time our groups recognize and appreciate the fact that NRCS worked hard with its states to ensure that at least \$20 million in technical assistance was provided through TSPs last year, and that they are working hard to double that amount to \$40 million in 2004. While this is a relatively small amount given the work that needs to be done, it is a definite start. It is our understanding that the vast majority of these funds have been spent using an alternative approach to that described above. Most of those funds were used to retain TSPs in 2003 through the use of direct contracting arrangements between a TSP and NRCS for a specific set of technical services. Competition among TSPs for these contracting arrangements ensures that market forces are brought to bear on the rates being paid. NRCS sends the TSP to producers known to need the services and the administrative burden on the producer is greatly reduced.

We believe that this type of direct contracting approach is far superior to producer-centered process provided in the TSP rulemaking. We strongly encourage NRCS to aggressively pursue the use of TSPs through the direct contracting approach and to expand the use of TSPs to ensure that producers are getting all of their technical support needs met.

Accountability in Technical Assistance

Whether it is provided by TSPs or NRCS's own staff, we fully support NRCS's efforts to continue to create a system that can fully and explicitly account for how technical assistance funds are being used by NRCS in support of its programs and missions. Without such a system it is becoming harder and harder to provide decision makers and policy officials with credible justification for why farmers need this assistance and why funding for it should continue.