EXTENDED TESTIMONY OF ROGER JOHNSON
PRESIDENT
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SUBMITTED TO THE
U.S. HOUSE OF REPRESENTATIVES
AGRICULTURE SUBCOMMITTEE
ON
LIVESTOCK, RURAL DEVELOPMENT AND CREDIT

REGARDING THE STATE OF THE LIVESTOCK INDUSTRY

HEARING HELD ON APRIL 30, 2014
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EXTENDED TESTIMONY SUBMITTED ON
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Additional Testimony of Roger Johnson
President, National Farmers Union
Before the House Agriculture Subcommittee on Livestock, Rural Development and Credit
Concerning the State of the Livestock Industry
Hearing Held April 30, 2014 – Additional Testimony Submitted May 12, 2014

National Farmers Union (NFU) thanks the U.S. House Agriculture Subcommittee on Livestock, Rural Development and Credit for the opportunity to provide supplementary testimony on the state of the livestock industry. Discussion during the subcommittee hearing brought forward additional arguments with limited time for response; thus, these comments provide a chance for a rebuttal.

Country-of-Origin Labeling

A 2003 study by the Department of Agricultural and Resource Economics at Colorado State University polled the likelihood of consumers to change their behavior when informed of the country-of-origin for beef. The study concluded that "respondents in this study were very concerned about source verification and labeling issues, and as a consequence, are willing to pay a high premium for the mandatory country-of-origin labeling program."

Members of the subcommittee and a few other witnesses questioned the value of Country-of-Origin Labeling (COOL) to consumers. The Colorado State study shows that consumers are willing to pay a premium for COOL, which corroborates evidence brought forward by NFU's initial testimony that consumers want to know the origin of their food.

Nearly 15 years to the day before this hearing, the then-House Agriculture Subcommittee on Livestock and Horticulture held a hearing on COOL. It is worth noting that one of the organizations most vocally opposed to COOL today was among its chief proponents. On April 28, 1999, George Swan, president of the National Cattlemen's Beef Association, told the subcommittee:

> *"A national consumer poll commissioned by NCBA … showed that consumers overwhelmingly support the concept of putting country-of-origin labels on fresh meat in the supermarket. A follow-up survey in March 1999 found statistically consistent figures that 76 percent of the consumers agreed with the statement that the United States should require labels on meat that show country of origin labeling… This is an issue right now of deciding whether we are giving consumer the right to choose a U.S. product versus an imported product, and I think that is what the issue boils down to right there."*

However, on April 30, 2014, Mike Smith of Harris Ranch, representing the National Cattlemen's Beef Association, testified to this committee:

> *"...the vast majority (of Americans) don't consider COOL in their purchasing decisions… (COOL) is also not a 'consumer right to know' issue."*

There was also a spirit of cooperation expressed during that 1999 subcommittee hearing that NCBA has since abandoned. Mr. Swan testified that:

> *"NCBA will be discussing country-of-origin labeling with retailers, packers, food processors and other industry groups in the near future to find the best solution for meeting consumer expectations. NCBA will also be working within a producer coalition that includes the American Farm Bureau Federation, the American Sheep Industry Association and the National Farmers Union to achieve our goals."*

This stands in stark contrast to a letter to Congress regarding the farm bill from NCBA's president, Scott George, sent in January 2014:

> *"Mistakes like Mandatory Country-of-Origin Labeling, which has already resulted in steep discounts to our producers and caused prejudice against our largest trading partners. This program was created without the consent of producers and has been a failure by every measure."*

The process that implemented the current COOL rules has been a long one, with more than ample time for discussion among farmer, rancher, consumer and processors interests. Congress acted in favor of COOL by including it in the 2002 and 2008 Farm Bills and demonstrated support for COOL by defeating an effort to undermine it in the 2014 Farm Bill. All parties in the livestock sector would be well-served to look toward a future in which consumers wish to know more about their food – an objective fulfilled in part by COOL.

Discussion among witnesses and some members of the subcommittee claimed that COOL rules are overly burdensome and difficult to meet. The facts say otherwise. NFU's initial testimony included a variety of statistics that showed how compliance is measured and monitored. Further research shows that in fiscal year 2013, USDA and its state cooperators reviewed 703,151 items among all commodities covered by COOL rules, which includes muscle cuts of meat. USDA calculates that of the more than 37,000 retail food establishments around the country, 93 percent of them are in compliance with COOL, and educational efforts are underway to bring more into line with the rules.

The cost of implementing COOL is not overwhelming, either, especially when considering that Americans consumed approximately 52.6 billion pounds of meat in 2012. USDA's published materials on the May 23, 2013, COOL rulemaking calculated compliance costs to range between $53.1 and $137.8 million. Dividing these figures yields a COOL cost of less than one-third of a cent per pound. Packers and processors have reaped bounteous profits in recent years. In 2013 alone, Tyson claimed $2.36 billion in profits, Smithfield had $1.32 billion, and JBS brought in $839.9 million. When the largest meatpackers are in such a strong financial situation, their complaints about COOL compliance, the Renewable Fuels Standard and market fairness provisions are difficult to take seriously.

Clarification of Actions by the Grain Inspection, Packers and Stockyards Administration

During the hearing, several witnesses and members of the subcommittee offered comments that would have been more appropriately brought up in 2010 rather than 2014. NFU supported

the 2010 GIPSA rule that would have brought forward much improved and long-awaited enforcement of the Packers and Stockyards Act (PSA). Despite the backing of family farmers and ranchers, USDA's final rulemaking on GIPSA was significantly smaller in scope than the original proposal. Attacks on the rules from meat packers and processors were largely successful, and few parts of the proposed GIPSA rules ever progressed.

Of those GIPSA rules that were allowed to move ahead, appropriations riders over the last few years have impeded their progress. Appropriations riders have prevented these common-sense rules from taking effect:

- Prohibiting meatpackers and poultry companies from retaliating against farmers for exercising their rights to free speech or to form associations. Farmers who have spoken out publicly, through communication with USDA or Congress, about what takes place on their farms or in their contracts, are in need of protection. Retaliation is a real threat for contract farmers, and is the chief reason Congress does not hear from some poultry growers about abusive practices.
- Requiring transparency in calculation of farmer payment. The payment mechanism under many contracts can be vague and complicated, ripe with opportunity for manipulation. This regulation would allow farmers to see the factors and statistics that determine the payment for their services.
- Preserving farmers' legal rights to a jury trial. Some poultry contracts have required farmers to waive their right to a trial before a jury when settling a case with a poultry company.
- Requiring disclosure of sample contracts. Farmers and the public should know the nature of livestock and poultry contracts. This will allow farmers to have a better sense of what options exist before entering into a contract, while still maintaining confidentiality for business information and trade secrets. All too often, farmers have no way of knowing what terms other farmers have secured in their contracts, which is an unfair advantage used by the processors and integrators to their own benefit. Farmers need access to this vital market information in order to make good decisions about their financial situation before entering into a contract.
- Establishing a uniform base pay for poultry and livestock companies using the tournament system. Many contracts may specify a base pay but then use factors outside of a farmer's control to deduct from that base pay level. For instance, many poultry companies decide what breed of chicks to provide a grower, which may in turn perform poorly in feed conversion as compared to other breeds shipped to other growers. The grower has no control over the quality of chicken placed on the farm and is then penalized. With a uniform base pay, a farmer may still gain a better level of pay if his animals perform well but will not be unfairly penalized for factors beyond his control.
- Clarifying that the PSA does not require farmers to prove competitive injury across the entire industry in order to prove they have been harmed by processors. An individual farmer who has been the victim of fraudulent or deceptive business practices by an integrator currently must prove that all farmers have been harmed by this single

transgression. It is within GIPSA's authority to clarify this provision so that a farmer may take legal action without having to meet the nearly impossible competitive injury standard in court.

The issue at hand for GIPSA is not the same as 2010. The above rules, which have been stalled by appropriations riders, are about basic contract fairness for poultry growers and are reasonable. The fact that abusive market practices are allowed to continue is extraordinarily harmful to family farmers and ranchers and does not bode well for the future of agriculture.

Importation of Animal Products from Brazil

The World Animal Health Organization (OIE) issued an alert on May 5, 2014, because a 12-year-old cow in Brazil was diagnosed with bovine spongiform encephalopathy (BSE). The infected animal, along with 49 other animals that were exposed to the disease, was destroyed. The timing of this event is alarming, as USDA has recently proposed to reverse the ban on exports of animal products to the United States from a region of Brazil that includes the state of Mato Grosso, where this case of BSE was found. The concerns brought before the committee in NFU's testimony, along with most of the other witnesses, were due to foot and mouth disease (FMD), which has long been present in this region of Brazil. USDA must reconsider its plan to lift restrictions on imports, not just due to the presence of FMD but now also BSE. The costs of an outbreak of either FMD or BSE in the United States would be extraordinarily high and whatever gains might be realized by allowing imports from Brazil are not worth the risks.

Furthermore, USDA recently released correspondence with Brazilian food safety regulators about the country's meat inspection system. USDA conducted an audit in early 2013, which found concerns about Brazil's ability to evaluate food safety procedures. The report concluded that USDA "will not certify any new establishments as eligible to export to the U.S." In subsequent letters, the Brazilian regulators noted they have started to consider changes to standards and enforcement, but have not put these steps fully into effect. These materials were released without time for adequate review before the April 22 deadline for comments on the proposed relaxation on animal product imports from Brazil.

Conclusion

Thank you for the opportunity to offer additional, extended testimony for the April 30, 2014, hearing.