Testimony on behalf of the

National Cattlemen's Beef Association

With regard to

A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges

Submitted to the

United States Senate – Committee on Agriculture, Nutrition, and Forestry

The Honorable Pat Roberts - Chairman

Submitted by

Tracy Brunner
President
National Cattlemen's Beef Association

May 26th, 2016

BEEF USA National Cattlemen's Beef Association

Mr. Chairman, members of the committee, my name is Tracy Brunner and I am the president of the National Cattlemen's Beef Association. I am a fourth generation rancher and cattle feeder from the Flint Hills area of Kansas, and our nearest Post Office is at Ramona. Our family operation includes three brothers and three sons. We are involved in cattle genetics, seed stock, grazing, and finishing cattle. I surely appreciate the committee's interest in cattle marketing issues, and it is an honor for me to be asked to share our viewpoints.

The National Cattlemen's Beef Association (NCBA) has for nearly 120 years represented America's beef cattle industry. We have over 30,000 direct and 170,000 affiliated members nationwide. America's cattle industry is extensive and constitutes the largest segment of American agriculture. Always at the mercy of Mother Nature, our industry is recovering rapidly from extensive drought. Herd rebuilding and expansion are taking place at a pace where U.S. cattle numbers will soon be equal to 2012. Additionally, American cattle producers continue to be more efficient in producing beef. We can produce the same amount of beef that we produced in 1977 with 30% fewer cattle, 18% less feed, 12% less water, and 33% less land. However, we need to continue our efforts to be more efficient as we strive to do our part in providing 70% more food to meet the expected population of 9 billion people in 2050.

Our industry requires extensive tracts of land to run cattle allowing us to preserve the ability for family cattle farms and ranches to stay viable. The beef industry is diverse in structure, yet the drive to stay competitive with other proteins has shown us the need to coordinate among all the stakeholders from field to fork. Cow/calf ranchers tell their seed stock suppliers what they need, and also ask their stocker and feeder calf buyers what they will pay most for. Cattle feeders likewise look to packer-processors for signals of greatest value, who in turn have an ear for retail and foodservice needs. As a complete beef supply chain, we have learned that without ultimate consumer focus, we can soon blindly produce our way into irrelevancy.

Due to the diverse and broad-based nature of the cattle industry operating in an environment of increasing need for coordination and cooperation, we have market needs more unique than other animal proteins and commodities. We rely on clear and accurate price signals to be passed up and down the beef value chain. A cow/calf producer must have not only precipitation, but also market confidence that his decision to mate a bull and heifer today will be rewarded beyond costs by the time it heads to market nearly two years later. Cattle grazers and feeders that purchase those calves need a clear view of future prices in order to determine if there is a return on their investment. In addition, packer-processors use price discovery and analysis in order to price beef in a way for consumers to be assured of a constant supply of the highest quality beef anywhere on earth.

Cattle prices have been a topic of focus for NCBA and our members. 2015 saw a record high for cattle prices, but those soon started back down due to several reasons. One factor was the increase in overall protein supplies. In 2015, U.S. per capita red meat and poultry supplies increased by nearly 10 pounds per person. In addition, the strong U.S.

dollar impacted our ability to ship beef to our international customers. All of this additional supply puts downward pressure on the markets. This has been compounded by the break in the drought throughout most of the cattle producing areas of this country which has resulted in more abundant and cheaper feed, and the resulting decision by many producers to increase the size of their herds. Larger supplies always lead to lower prices, but we are used to the ups and downs of the cattle cycle. In order to manage this cycle, we need risk management tools that work.

Price discovery is ultimately driven by supply and demand. The fundamentals of markets are universal. The cattle industry today relies on transparency of price discovery to send clear signals up and down the beef chain. Cattle and beef are a wonderful but perishable creation. We are not grain that can be stored for great lengths waiting on fundamentals to steady an uncertain market. We currently rely on market forums like CME Group's cattle futures contracts as solid information in our price discovery process. Changing technologies and a transition to automated trading in commodity futures trading have increased market volatility, making interpretation of those price signals different than what we were accustomed to in the past. The integrity of our market forums is very important, for without futures contract integrity our industry will abandon their use.

We have recognized the volatility and are working directly with the CME Group to find ways to address it. We have a joint NCBA/CME working group which is analyzing potential changes which could slow the market down and ensure a level playing field for producers who are using these tools to manage their price risks. Today we ask for no direct action from our government in our cattle marketing systems and forums. In fact, I am concerned at some of the action we have seen from USDA and the Senate.

Secretary Vilsack has announced that he is going to dust off the proposed GIPSA marketing rule that resulted from language included in the 2008 Farm Bill. This is concerning to us because bi-partisan efforts resulted in appropriations language which defunded any additional work on, or implementation of, the ideas included in the draft rule. The provisions in the draft rule would have taken away our ability to market cattle the way we want to. The proposed GIPSA rule would have made USDA the ultimate arbiter of how cattle are marketed. We urge USDA to enforce the Packers and Stockyards Act as it exists now. We do not need them dictating how we can or can't market our cattle.

I am also aware of the recent introduction of a bill to ban packer ownership of cattle. This is another solution in search of a problem which has been tried, and defeated, many times before. Over the past decade, USDA's Mandatory Price Reporting has shown that only five to six percent of cattle are packer owned. This is not the source for the downward market.

We have worked for years to find new and innovative ways to market cattle. Alternative marketing arrangements have been studied by USDA and independent groups, and the results show that these alternatives benefit producers and consumers alike. Any

Congressional or Executive action to interfere will only add to our price problems, not solve them.

Solving our price problems relies on addressing the true issues of consequence to our industry. Beef trade is one of those issues. Globalization is not feared by the American beef industry, but embraced. In fact we continue to export an increasing volume and value of American beef to destinations worldwide. Last year we exported over 14% of all finished cattle value, that's worth over $300 extra for every calf in America. Many of you can likely attest that NCBA is always talking about more market access for the ability to sell more beef. Our beef does compete on the global market, however our industry is not easily replicated globally.

If Congress passes TPP this year, the U.S. beef industry will be one of the biggest winners in agriculture. At the same time, if Congress fails to pass TPP or delays action on TPP, the U.S. beef industry will be one of the biggest losers in agriculture, and here's why that is the case.

Roughly 80 to 85 percent of the beef we produce is for the American market. American consumers love the ribeyes, tenderloins, and briskets from our cattle, but not all cuts of the carcass can be sold domestically at a premium. The small percentage of beef that we export are cuts like tongues and short plates that are not desirable to the American consumer. Rather than send these cuts to a landfill or process them into pet food, we have found that Asia has proven to be a great destination for these cuts.

As a result, we have capitalized on the growing demand for U.S. beef overseas and Japan has become our leading export market. In 2015 the Japanese purchased $1.3 billion of U.S. beef and was one of the leading export markets for beef tongue. Even with a 38.5 percent tariff rate on our beef, we have seen a tremendous growth in export sales to Japan over the past four years and we have been able to gain significant market share because of the quality and price of our beef.

Our leading competitor in the Japanese beef market is Australia. In January 2015 the Japan-Australia Economic Partnership Agreement took effect and gave our leading competitors a 10 percent tariff advantage over us in our leading export market. In other words, the Japanese tariff on U.S. beef is 38.5 percent and the Japanese tariff on Australian beef is less than 28 percent. This disadvantage for U.S. beef in Japan resulted in nearly $300 million in lost sales to Japan in 2015. The tariff rate advantage for Australia will continue to grow for the next decade unless something is done to level the playing field in Japan. The good news is TPP will level the playing field for U.S. beef in Japan by lowering the tariff rate on U.S. beef to match Australia's tariff rate upon implementation of TPP and will continue to decrease to 9 percent over 16 years. This the greatest beef market access ever negotiated into Japan.

Japan market access is not the only highlight of TPP. TPP eliminates tariffs on U.S. beef exports to other countries including Vietnam and Malaysia, and also includes a strong set of rules that prevent governments from putting in place non-science based barriers and technical barriers to trade. TPP also gives us leverage over countries like Indonesia, Taiwan, the Philippines—all countries who want to join TPP and all are countries where U.S. beef has outstanding issues with market access.

The benefits of TPP are great, but so are the costs of inaction. If the United States fails to enact TPP, then we will send a strong message to our allies in the Pacific Rim that we are no longer willing to lead in the Pacific and the United States will simply resign our position of leadership to China regarding international trade and the geopolitical affairs of the Pacific Rim.

Unfortunately China already has leverage over the United States in terms of beef market access and has exerted that leverage since it banned U.S. beef in 2003 following the classical BSE case involving a Canadian-born cow in the state of Washington. In 2006, China unilaterally re-opened its market to de-boned beef from cattle under 30 months of age with the stipulation that US beef imports meet 22 requirements that included traceability of the animal to place of birth and the exclusion of meat from cattle that were of Mexican-origin. A year later, in 2007, China expanded access for U.S. beef to include bone-in beef from cattle under 30 months of age, subject to the same 22 conditions they introduced in 2006. The U.S. beef industry did not agree to meet these non-science based and commercially restrictive terms and worked to educate the Chinese government on how these unnecessary requirements did nothing to address food safety or animal health concerns. In 2012, the United States received negligible risk status for BSE from the World Organization for Animal Health (OIE); this is one of the highest levels of safety awarded by the OIE. Even with our negligible risk designation, China has not modified its BSE restrictions on U.S. beef and we are still prohibited from the Chinese market.

Regaining market access to the large and growing Chinese beef market is essential to the future health of the U.S. beef industry. For several years the U.S. government has been meeting with Chinese officials to discuss re-opening the Chinese market to U.S. beef. Unfortunately whatever progress has been made in these meetings has simply led to further questions and delays. Despite the frustrating process, NCBA remains strongly committed to working with the U.S. government to address China's concerns. With the guidance and direction of our volunteer leaders we will continue to provide the necessary advice that our government needs to arrive at an agreement that will address China's concerns and help us regain access for beef. One of the points of concern for China is the U.S. capacity to identify at the slaughter plant the birth premise of every animal from which beef is certified for export to China. The U.S. beef industry and the U.S. government have worked extensively to find a solution that does not place mandatory production requirements on producers regarding traceability. We believe there are existing voluntary marketing programs that address China's concerns and look forward to our negotiators being able to find a common-sense solution and restore access to China. Even if there is a consensus position to address China's concerns, China may bring up other potential roadblocks that will have to be addressed at that time. A healthy dose of caution is needed in working with China.

Other actions can also be taken to help our industry recover from downward prices. We continue to be hit with over burdensome regulations which hamper our ability to be as efficient as possible. One such over burdensome regulation is the Endangered Species Act. Despite being essential to protecting habitat for wildlife everywhere, cattle producers throughout the country continue to suffer the brunt of regulatory and economic uncertainty as a result of the US Fish & Wildlife's implementation of the Endangered Species Act.

Simply put, the ESA is broken. Years of abusive litigation by radical environmental groups have taken a toll, and the result is a system badly in need of reform. Today more than two thousand species are listed as either Threatened or Endangered, with new petitions stacking up by the hundreds due to groups that have set up “petition assembly lines” to churn out new filings by the dozen. When the Fish and Wildlife Service fails to respond to this avalanche of procedural paperwork, the groups sue, tying up the court system and sapping the agency of money that should be used for species recovery and delisting efforts.

If we want to fix the Endangered Species Act we are going to have to get serious about ending this taxpayer-funded litigation abuse. The Equal Access to Justice Act and the ESA Judgement Fund were not created to serve as bank accounts for activist groups, yet that's how they are being used. Every time the FWS settles a lawsuit or enters a settlement agreement like the infamous 2011 “mega-settlement” with the Center for Biological Diversity and WildEarth Guardians, these “factory litigants” receive a windfall profit, which only reinforces their action and encourages more abuse.

The result of this cycle of abuse is a dismal 1.4% recovery rate for listed species – a failure by any standard. Since all available resources are devoted to listing petitions and litigation, virtually nothing remains for recovery and delisting efforts. Some species have been listed for 15 years or more without a valid recovery plan or recovery benchmarks in place. For cattle producers operating in the range of a listed species, that means playing a game we can't win using rules we're not allow to see.

After 40 years, Congress must step in to reform this broken law. We need to restore balance to the ESA by making recovery plans and delisting benchmarks a requirement to list a new species. Certainly if the Service has enough information to determine that a species is threatened, it should also have enough information to determine what “recovered” looks like. Congress must also ensure that effective conservation tools like Candidate Conservations Agreements with Assurances (CCAAs) aren't marginalized through the rulemaking process. The assurances provided to producers through such instruments are critical to effective preemptive conservation efforts on the ground. With clear guidance, realistic recovery goals, and a focus on truly threatened species, cattle producers stand ready to continue their work on the front lines of species conservation. It is my hope that Congress will act to provide the Fish and Wildlife Service that badly needed guidance.

When we talk of over burdensome regulations, we always need to talk about the Environmental Protection Agency (EPA). Cattle producers rely on clean water, clean air, and clean land to run successful businesses. We pride ourselves on being good stewards of our country's natural resources. Since our livelihood is made on the land, through the utilization of our natural resources, being good stewards of the land not only makes good environmental sense; it is fundamental for our industry to remain strong. We maintain open spaces, healthy rangelands, provide wildlife habitat, and feed the world, but to provide all these important functions, we must be able to operate without excessive federal burdens. Unfortunately, the livestock industry is threatened daily by urban encroachment and natural disasters, and the last thing we need is additional regulatory burden and government overreach.

The Waters of the U.S. (or "WOTUS") rule continues to be a top concern for cattle producers, despite the temporary court-ordered stay. I am extremely concerned about the devastating impact this rule could have on me and other ranchers and farmers. As a livestock producer, I can tell you that the rule has the potential to impact every aspect of my operation and others like it by regulating every tributary, stream, pond, and dry streambed on my land. What's worse is the ambiguity in the rule that makes it difficult to determine just how much of my operation will be affected.

WOTUS is just the tip of the iceberg for incoming environmental rules that impact beef producers. Another pending regulation is the Spill Prevention, Control, and Countermeasure (or "SPCC") rule for farms, which requires farmers to develop and certify a control plan and install secondary containment structures for oil storage. There's also the new ozone standard which can impact a rancher's ability to conduct a prescribed burn, which is an environmentally beneficial practice for burn-dependent ecosystems. I'll also mention the Resource, Conservation & Recovery Act – a law designed by Congress to regulate landfills – which for the first time ever was determined by a federal court judge to apply to agricultural operations. Ironically, these regulatory and enforcement regimes ultimately disenfranchise agricultural producers instead of incentivizing conservation efforts.

As I explained earlier, our industry is quite diverse and independent by nature, but by necessity we come together to solve our challenges. I sincerely appreciate your invitation and attention for these few minutes today. We want to work with you to ensure that legislation passed and regulations promulgated are ones which help producers, not hinder us.