



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

MAY 17 2010

Mr. Steve Foglesong  
President  
National Cattlemen's Beef Association  
4810 East McCormick Highway  
Astoria, Illinois 61501-9480

Dear Mr. Foglesong:

Thank you for your letter of March 22, 2010, regarding the National Cattlemen's Beef Association (NCBA) Governance Task Force's (GTF) recommendations.

We continue to review the issues raised in your letter. I understand that your organization continues to work on its proposed structure and will present it to the NCBA Board of Directors in July 2010. Given the recent discussions within your organization on the GTF recommendations, I wanted to take this opportunity to let you know that we do have serious concerns with the approach as we understand it. To be clear, we want to ensure that you understand the requirements of this law.

The U.S. Department of Agriculture's Agricultural Marketing Service (AMS) has oversight over the national Beef Checkoff program, and I ask that you continue to be mindful of the requirements of the Beef Promotion and Research Act (Act) and the Beef Promotion and Research Order (Order) should you move forward with implementing the GTF recommendations. Specifically, in any final NCBA structure, AMS must be able to discern how 100 percent of the beef checkoff funds are used. This is a critical oversight component that your current GTF recommendations would not necessarily provide.

Over the years, there has been a trend within other research and promotion programs to make a stronger firewall between policy and checkoff funded activities. This separation is critical. NCBA's reorganization proposal would, instead, weaken the firewall between policy and checkoff funded activities, thereby jeopardizing the Beef Checkoff program and set a bad precedent for checkoff programs in general. It is important to remember that beef/dairy producers and importers are mandated to pay into the Beef Checkoff program and they need concrete assurances that their monies are used as intended by law, and the generated funds support the interests of all producers and importers, not just NCBA members.

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Producers also should not feel compelled directly or indirectly to join a particular organization in order to have influence on how their mandated checkoff dollars are used. Any structure that leads this direction could have constitutional implications.

To ensure proper use of funds and oversight activities, any restructuring of NCBA that impacts the Federation of State Beef Councils (Federation) must include the following firewalls:

- The Federation must be an independent organization. This requirement does not prohibit the Federation from contracting for its administrative or other services with other organizations. This requirement is consistent with the structure and administration of other checkoff programs where there is a clear distinction between policy organizations and checkoff programs.
- All funding decisions relating to checkoff activities must be made only by the Federation and Cattlemen's Beef Board, and not policy organizations.
- The Federation's members who serve on the Beef Promotion Operating Committee are to be nominated and elected only by the Federation.
- Federation members must not vote on policy matters, nor be required to purchase a seat to a body that votes on policy. Checkoff funds cannot be used to purchase a seat in any policy organization.
- Regardless of structure, policy organizations should not be permitted to influence, determine outcomes, or vote on checkoff decisions.
- AMS has statutory and regulatory oversight of the Federation and the Board.
- Failure to implement all of these firewalls would raise serious legal concerns as to whether the restructuring complies with the provisions of the Act and Order.

Producers and importers, including yourself and your fellow NCBA members, must remain confident that the monies contributed to the Beef Checkoff program are being used in the most effective and appropriate way, and in conformity with the requirements of the Act and the Order. We will continue to review the GTF recommendations and provide oversight should they impact checkoff funded activities.

Again, thank you for writing and for the information you provided. A similar letter has been sent the other NCBA producers who cosigned the letter.

Sincerely,



Thomas L. Vilsack  
Secretary