

Testimony for  
The Future of U.S. Farm Policy:  
Formulation of the 2012 Farm Bill

Submitted to the  
United States House Committee on Agriculture  
Representative Frank Lucas, Chair

Submitted by  
Frank Harper  
Sedgwick, Kansas

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Dodge City, Kansas

Mister Chairman and members of the committee, my name is Frank Harper. My wife Mary and I have a cow-calf, backgrounding and farming operation near Sedgwick, Kansas. Our cattle operation consists of both registered and commercial cows. We typically background our calves then retain ownership through the feeding phase. Our farming operation consists of wheat, grain sorghum, soybeans and corn and includes dryland and irrigated production. I am President of the Kansas Livestock Association (KLA) and serve on the Board of Directors of the National Cattlemen's Beef Association (NCBA), of which KLA is an affiliate. I am very pleased to be with you today.

The beef industry is a key segment of the Kansas economy and the Kansas beef industry is a major piece of the U.S. beef industry. Kansas ranks third nationally with 6.1 million cattle on ranches and in feedyards. Those cattle generated \$6.53 billion in cash receipts in 2010. Kansas is a national leader in cattle feeding and beef processing. The Kansas beef cow herd is the seventh largest in the country at 1.43 million head. Also, the presence of Kansas State University, the Animal Health Corridor and the proposed National Bio and Agro-Defense Facility makes Kansas a world leader in animal health research.

Development of the next farm bill is an important process for livestock producers. Whether directly or indirectly, the provisions included in the farm bill can have a dramatic impact on livestock producers' businesses. I oppose agriculture policies that pit one industry group against another, distort market signals and inadvertently cause economic harm to the livestock sector.

The vast majority of my fellow livestock producers believe the livestock industry is best served by the process of free enterprise and free trade. Even with its imperfections, free trade is relatively more equitable than regulated and subsidized markets which retard innovation and distort production and market signals. We oppose attempts to narrow the business options or limit the individual freedom of livestock producers to innovate in the management and marketing of their production.

I oppose inclusion of a "Livestock Title" in the next farm bill. The livestock title in the last farm bill attracted proposals like the GIPSA rule, mandatory country-of-origin labeling and other items counter to the free enterprise system I support.

Items with industry-wide support can be included in the "Miscellaneous Title", just as they have been in every farm bill prior to the 2008 bill. I ask for the support of members of this committee in opposing a Livestock Title in the next farm bill.

### **GIPSA Proposed Rule on Livestock Marketing**

I strongly oppose, as do the vast majority of Kansas cattle producers, the proposed regulation issued by the Grain Inspection, Packers and Stockyards Administration (GIPSA) on June 22, 2010. I would refer you to comments filed by KLA and NCBA which may be found at <http://www.kla.org/proposedgipsarule.aspx>. Although USDA has not advanced the most egregious portions of the regulation for final rulemaking, the threat remains, especially after the current appropriations restriction expires in September.

Beef producers throughout Kansas and the United States are concerned the proposed regulation would greatly expand the role of government in marketing livestock and eliminate producers' rights and ability to market livestock to capture the benefits of their efforts to improve the quality of their livestock.

As outlined in both sets of comments, the regulation outlines new definitions to be used to interpret the Packers and Stockyards Act that would expand the jurisdiction of USDA over all marketing arrangements. USDA would require the reporting of marketing arrangements and then would post them on the USDA web site. Producers participating in marketing arrangements would have limited ability to protect their private information from public disclosure.

The proposed regulation has broad application and may include existing contractual arrangements if the agreement between the buyer and the seller were modified by the parties. The proposal also would require buyers to justify any discount or premium paid. USDA then would review these transactions and make determinations of violations based upon its judgment, not marketplace economics.

The proposal includes new definitions of "competitive injury" and "likelihood of competitive injury" and new listings of circumstances that may be considered "unfair, unjustly discriminatory and deceptive practices or devices." Both sets are so broad that mere accusations, without economic proof, would suffice for USDA or an individual to bring a lawsuit against a buyer.

The proposal's new listings of criteria that USDA would use to determine whether an undue or unreasonable preference or advantage was made by a buyer include requiring the buyer to make similar offers to all livestock producers; requiring the buyer to make price premium offers in a manner that does not discriminate against any other seller; and requiring the buyer to make offers known to all sellers if such offer is made to one or more seller.

We believe these provisions would negatively impact producers and consumers in the following ways.

*Lost Opportunities and Lost Profits:* Cattle producers are concerned this regulatory proposal, coupled with the risk of litigation from USDA and citizen suits, likely would cause buyers to withdraw marketing arrangements rather than run the risk of litigation, civil penalties and potential revocation of licenses.

If marketing arrangements were restricted, producers and consumers would be the losers. The proposed regulation would restrict cattle producers' freedom to market their cattle as they see fit. It would limit their opportunity to capture more of the value of their cattle and eliminate important risk management tools. Regulating marketing agreements would impact nearly 65% of the fed cattle market.

The proposed regulations ultimately may remove products consumers prefer. Producers have responded to consumer demand by finding innovative ways to develop and market premium quality and branded products. These alternative marketing arrangements have allowed producers to get paid for the added value. These arrangements ensure a consistent supply of livestock and

poultry that meet the requirements of such programs. Without this consistent supply, these programs cannot be sustained.

The 2007 USDA GIPSA Livestock and Meat Marketing Study found reducing or eliminating the use of alternative marketing arrangements (AMAs) would negatively affect both producers and consumers. No segment of the beef industry, from the ranch to the consumer, would benefit from the reduction or elimination of these marketing arrangements. The GIPSA study results showed if AMAs were reduced 25%, the 10-year cumulative effect would be a loss of \$5.141 billion for feeder cattle producers; a loss of \$3.886 billion for fed cattle producers; and a loss of \$2.539 billion for consumers. If marketing arrangements were eliminated, the 10-year cumulative losses for producers and consumers would be as follows: feeder cattle producers - \$29.004 billion; fed cattle producers - \$21.813 billion; and consumers - \$13.657 billion. Combined losses across all segments would exceed \$60 billion.

*Loss of Privacy/Risk of Litigation:* The proposed regulation requires packers to file copies of marketing arrangements with USDA. Packers may assert some information is confidential and request that it not be released. However, producers who are parties to the marketing arrangements would not have the same opportunity to claim privacy. This means confidential producer information could be posted on USDA's web site for producer competitors to view. The regulation would lessen the burden for bringing an action against a packer. Packer livestock purchase records likely would be a part of any litigation. Producers participating in questioned transactions likely would be drawn into the litigation.

*Negative Restructuring of the Industry:* I believe the potential elimination of marketing arrangements likely would encourage vertical integration. In order to satisfy consumer demand currently being met through the use of marketing arrangements, packers may choose to own livestock in larger numbers (today, packers directly own less than 5% of the market) rather than risk litigation.

While the regulation is couched in many legal terms and arguments, it would have a real impact on producers like me. Over the years, I have invested in genetics that have helped me improve the quality and consistency of the calves I produce. To capitalize on this investment, I retain ownership on my calves and feed them in a commercial feedyard. This allows me to market my calves through U.S. Premium Beef and other programs that allow me to earn premiums for my high quality cattle.

The proposed regulation would require purchasers of my cattle to justify paying more than a "standard price" for my livestock. What is a standard price and who sets it? The regulation seems to infer that to be the role of government. I strongly oppose the government setting "standard prices" for my livestock. If my competitors (other producers) don't agree with the justification the packer offers for not paying me a "standard price", the packer may be sued. Common business sense tells me that it wouldn't be long before the packer no longer would be interested in our agreement. This means I'll be back to selling cattle for the same average price as everyone else. My investment in superior genetics would be lost.

I believe the proposed rule will set the beef industry back to a time when all cattle received the same average price and beef demand was in a downward spiral. The rule also goes far beyond the intent of Congress. Members of this committee will recall several of the proposals contained in this rule were either defeated or withdrawn during consideration of the last farm bill. We strongly urge you to take action to prevent the implementation of this rule.

I believe the best course of action to protect U.S. beef producers is to delete the language which led to the proposed GIPSA rule. To that end, I support language striking SEC. 11006, Part 1 of the Food, Conservation and Energy Act of 2008.

### **Livestock Ownership Restrictions**

Another marketing related issue of concern is efforts to restrict packer ownership of livestock. I strongly oppose H.R. 4284 and its Senate companion, S. 2141. While the bills target packers, they could more accurately be described as restricting producers' choice of when to market their livestock. Study after study has shown packer ownership levels have no impact on market prices. In fact, the 2007 GIPSA study found limiting marketing opportunities in the beef industry would have significant negative effects for both producers and consumers.

I ask members of this committee to reject any attempt to include language such as that contained in H.R. 4284 in the next farm bill.

### **Country-of-Origin Labeling**

The vast majority of beef producers have supported voluntary country-of-origin labeling (COOL) programs. These producers believe the market will provide the information and attributes consumers desire and are willing to pay to receive. The number of branded beef programs being utilized by beef producers is a testament to the signals provided by the market.

Despite broad beef industry opposition, the current mandatory COOL program was included in the last farm bill. Producer groups like KLA and NCBA actively engaged in the development of the regulation in an attempt to limit the recordkeeping burden for the industry. While we believe the requirements of mandatory COOL have been relatively benign for most producers, the same cannot be said for all beef industry participants.

Last year, the World Trade Organization (WTO) ruled in favor of Canada and Mexico in their complaint against the U.S. mandatory COOL program. Although the U.S. Trade Representative has appealed the ruling, we believe the original decision is likely to stand.

It is in the interests of the U.S. as a whole, and the U.S. beef industry in particular, to resolve this dispute before retaliatory action is taken. Canada and Mexico are among the largest trading partners for the U.S. In terms of exports, Canada and Mexico represent the number one and two destinations for U.S. beef products. In 2011, Canada and Mexico purchased more than \$2 billion worth of U.S. beef and beef products, nearly 40 percent of our total beef export value.

I strongly support the inclusion of language in the next farm bill to address the WTO finding. My preference would be language making the meat portion of the COOL program voluntary. An alternative approach would be to adopt the concept of substantial transformation wherein meat from any animal processed in the U.S. would be labeled as "Product of the U.S."

### **Conservation Title**

Several conservation programs authorized in previous farm bills have played an important role in assisting farmers and ranchers enhance our nation's natural resources for food production, wildlife habitat, and water quality. In Kansas, the Environmental Quality Incentive Program (EQIP) is improving habitat for grassland-nesting birds under consideration for listing as threatened or endangered species, enhancing the health of grazing lands, improving water quality near lakes used for public drinking water, improving soil quality, conserving groundwater and reducing soil erosion. In fiscal year 2010, our state NRCS personnel completed over 900 contracts impacting over 213,000 acres of our state's agricultural landscape. One important feature of EQIP has been its focus on livestock operations. I recommend a continued focus of 60% of EQIP funds toward livestock projects.

My personal experience with EQIP has been very positive. EQIP helped enable me to make the transition to no-till farming. The cost-share funds made it feasible for me to make the investment necessary to complete that transition. I know many similar stories where EQIP has facilitated operational changes that have positively impacted environmental quality.

Farm and Ranchland Protection Program and Grassland Reserve Program (GRP) conservation easements are in strong demand by our state's agricultural landowners who desire to sell their development rights to protect their lands for future generations of farmers and ranchers. In many instances, selling a conservation easement has been a helpful tool for estate and succession planning as today's landowners prepare for the next generation of farmers and ranchers.

Kansas leads the nation in the number of GRP agreements. To date this program has permanently protected over 36,000 acres of high-quality native grasslands, through 66 GRP conservation easements in Kansas. We realize GRP does not have baseline funding for the next farm bill, but we encourage Congress to reauthorize this program and give it favorable consideration for its share of funding.

I encourage members of this committee to remind your colleagues that federal funds spent on conservation are a good investment in our country's natural resources and the ultimate beneficiary is the general public. In addition, conservation program spending is not an entitlement as participants are required to use these funds on the land and, in many instances, are required to invest their own time and personal funds as a match or cost-share contribution.

### **Conservation Easement Tax Incentive**

The Food, Conservation, and Energy Act of 2008 included a provision to extend the income tax incentive for qualified conservation gifts, including donated conservation easements. This extension expired December 31, 2011.

I support making this incentive more permanent, as proposed in H.R. 1964, the Conservation Easement Incentive Act of 2011. This bipartisan bill is sponsored by 302 members of the House, including several members of this committee. I encourage this committee to consider including similar language in the next farm bill.

## **Research**

My fellow cattle producers and I fully recognize the current economic situation facing the federal government and the need to reduce the federal deficit. That said, I believe there are a number of programs worthy of continued funding in the farm bill. One area that plays a significant role in the livestock industry is the research title. Funding for livestock production research continually has declined since the 1970's. The beef industry does support increased funding for research on production practices, animal diseases, nutrition, food safety, and environmental impacts of the industry. Of these, the most critical programs administered by USDA are in the area of animal health.

I would encourage the Committee to closely look at this title and identify ways we might be able to do more with less to ensure the health of our U.S. beef herd. Finding ways to increase investment opportunities, whether through public or private partnerships, will be vital to the security and viability of our agricultural industry and food supply. As we look to further expand international trade opportunities, animal health issues will become even more important with our international trading partners. It is imperative that we continue to invest in research on animal health issues to help U.S. producers remain competitive in the global marketplace.

Related to animal health research is the proposed National Bio and Agro-Defense Facility (NBAF) currently planned for construction in Manhattan, Kansas. NBAF will house research on important foreign animal diseases now being conducted at the aging facility on Plum Island. This research is essential to protecting U.S. livestock from potentially devastating diseases such as foot-and-mouth disease. Research scientists are close to developing several important vaccines that would mitigate the impact and help contain a foreign animal disease outbreak. It is important that research continues.

Due to the nature of the pathogens used in this research, the strictest and most modern bio-security and containment measures are necessary in this type of facility. Although the Plum Island facility has served its purpose well, it has reached its useful life. Given the importance of the research, it is imperative that development of a new facility move forward. We believe the Manhattan site is an appropriate location for the new facility given the proximity of the animal health corridor and the existing bio-security level 3 facility. We ask for the support of this committee in moving forward with an appropriately designed and funded facility.

## **Government Mandates for Production Practices**

Cattle producers recognize and respect their obligation to provide for the well-being and care of their cattle. It is my responsibility to raise my cattle in a humane and compassionate manner and I take that responsibility seriously. I am concerned with legislation that has been introduced in

the House (H.R. 3798) that would require the federal government to dictate production practices for food producing animals. Knowing the intent of this bill is focused on the laying hen industry, I still have serious concerns about the precedent of the federal government getting in the business of telling producers how to raise their animals, taking the decision away from farmers and ranchers and the animal health professionals and animal scientists with whom they consult. I am concerned the legislation will stifle the scientific research and industry innovation that ultimately benefits animals. Prescriptive production mandates are a clear disincentive to continually improve our industries based on the latest science.

The World Organization for Animal Health (OIE) currently is developing international, species-specific standards for animal care. This process is guided by scientists and veterinary experts who have made the decision to move away from prescriptive housing requirements and instead have adopted outcome- based requirements. Current U.S. industry guidelines are science and outcome-based. We closely monitor each OIE guideline to ensure our industry standards remain consistent with any science-based OIE standards. I urge you and your colleagues to carefully evaluate the role of the federal government in determining animal production practices. I believe those decisions are best kept in the hands of the animal scientists, veterinarians, farmers and ranchers who care for these animals every day.

### **Animal Disease Traceability**

The beef industry long has been supportive of animal identification for animal health purposes. We strongly believe the goal of any program should be to enable the cattle industry, state and federal animal health officials to respond rapidly and effectively to animal health emergencies. We do appreciate APHIS recognizing the shortcomings of the previously proposed NAIS and that it had become a barrier to achieving meaningful animal disease traceability in the U.S.

The beef industry has advocated for a species specific and phased-in approach. The proposed Animal Disease Traceability (ADT) program does this with Phase 1 only applying to cattle more than 18 months of age. We look forward to an objective, robust assessment of Phase 1 before moving forward with inclusion of any cattle under 18 months in Phase 2. We are concerned as the proposed rule does not provide for a separate rulemaking process for Phase 2. We encourage APHIS to reevaluate how they plan to proceed for this age group and allow for a separate rulemaking. This group of cattle is much larger, more complex, and has increased logistical, technical and financial challenges for cattle producers and animal health officials.

We also are concerned USDA's cost-benefit analysis may be flawed and not adequately represent the total cost to the cattle industry for Phase 1 and especially for Phase 2 of the program. The beef industry consulted with agricultural economists who indicate there is not enough information provided for a separate cost/benefit analysis. Therefore we requested more information in order to adequately evaluate APHIS' economic analysis of the ADT rule.

### **Proposed On-Farm Child Labor Regulations**

I am very concerned about the impact of recent proposed changes to on-farm child labor regulations. I applaud the Department of Labor's desire to enhance the safety of young people



working on farms and ranches. A safe working environment is a primary concern of all farmers and ranchers. However, I am concerned the proposed regulations will stifle the ability of young people to work in agriculture.

The list of prohibitions in the proposed rule is long and many are very vague or overly broad. Overly burdensome regulations often do more damage than good. I believe parents are better positioned to make decisions about the types of tasks assigned to young people on farms and ranches.

We need more, not fewer, opportunities for young people to learn about agriculture and the potential for a career in agriculture. Not to mention the responsibility and work ethic developed when working with livestock or caring for crops. I appreciate the support shown by Chairman Lucas and several members of this committee in sponsoring H.R. 4157, the Preserving America's Family Farms Act. I encourage every member of this committee to become a cosponsor of this bill.

### **Commodity Title**

Finally, I would like to comment on the commodity title. Historically, the cattle industry has hesitated from weighing in on prospective Title I programs. Recent proposals, however, including those made during negotiations on the Super Committee proposal, cause some concern.

Current commodity programs are relatively uniform, with each commodity crop participating in the direct payment, counter cyclical, marketing loan and crop insurance programs. Discussions that involve creating segmented commodity programs for individual crops pose a real threat to the livestock industry. Creating individual commodity programs increase the risk that farmers will fail to heed market signals and continue to grow crops in low demand and fail to increase production of crops in higher need.

In the next farm bill, it is crucial that commodity programs not pick winners and losers. While the structure of commodity programs may change, cattle producers urge members of this committee to maintain uniformity of programs across all commodities.

### **Conclusion**

As you can see, the vast majority of cattle producers believe markets free from government interference best serve the beef industry. We prefer a farm bill that does not restrict our marketing options or distort market signals. We look forward to working with you as the next farm bill is developed.

## Frank Harper

Frank Harper has backgrounding facilities and grazes cattle on crop residue in Harvey and Sedgwick counties, near Sedgwick, Kansas. He and his wife, Mary, lease the majority of their grass from her family in Butler County. They own both commercial and registered cowherds. Calves from the commercial herd are backgrounded and retained through the feeding phase, with some sold through U.S. Premium Beef. Harper's registered cows serve as a cooperator herd for Harms Plainview Ranch, a purebred operation near Lincolnvile. The Harpers also partner with his parents on a dryland and irrigated farming operation.

Harper is very involved in beef industry leadership. He currently serves as President of the Kansas Livestock Association. He also serves on the NCBA Board of Directors and as a member of the NCBA Property Rights and Environmental Management Committee. Harper has served as vice chairman of the KLA Water Committee and on the KLA Policy & Resolutions Committee. He serves on the KLA Executive Committee and is a past KLA Harvey County director. He is a past chairman of the Kansas Beef Council Executive Committee.

Harper is a past member of the Groundwater Management District #2 Board of Directors, having served several terms as vice president. He has served in various leadership capacities with his local extension board and with the Sedgwick United Methodist Church.

He graduated from Kansas State University with an agronomy degree in 1992. Harper is a 1988 graduate from Sedgwick High School.

The Harpers have two daughters, Annie and Cora. They attend school in the Sedgwick school district.

**Committee on Agriculture  
U.S. House of Representatives  
Required Witness Disclosure Form**

**House Rules\* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2009.**

Name: Frank Harper

Organization you represent (if any): \_\_\_\_\_

1. Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2009, as well as the source and the amount of each grant or contract. House Rules do **NOT** require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:

Source: \_\_\_\_\_ Amount: \_\_\_\_\_

Source: \_\_\_\_\_ Amount: \_\_\_\_\_

2. If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2009, as well as the source and the amount of each grant or contract:

Source: \_\_\_\_\_ Amount: \_\_\_\_\_

Source: \_\_\_\_\_ Amount: \_\_\_\_\_

Please check here if this form is NOT applicable to you: \_\_\_\_\_ **X** \_\_\_\_\_

Signature: 

\* Rule XI, clause 2(g)(5) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

**PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.**