



MIKE CALLICRATE

# Like GM, Food Companies Place Profits Over Safety and Security

**OUR NATION'S FOOD SYSTEM IS AT RISK!**

**P**utting people at risk to save a buck isn't isolated to the automotive industry. In today's global economy, where the biggest cheater wins, foreign imports of beef and the recent return of Pink Slime add insult to injury for the few remaining independent producers and meat processors struggling to survive. Food companies from Walmart to Chipotle to the mom and pop restaurants that rely on a Sysco food

truck are acting contrary to U.S. interests with every transaction involving foreign meat; even worse, when that meat is blended with Pink Slime, food security, food safety and the reputation of our nation's beef industry is damaged.

The beef cartel that has monopolized and decimated the U.S. cattle and beef industries is searching the world for the cheapest beef for trading into the most profitable markets. The impact isn't limited to U.S. ranchers. Australian cattlemen have suffered a disastrous market failure with the loss of their competitive market-

Please see CALLICRATE on page 5



## INSIDE

- 2 INVITATION FROM THE PRESIDENT**  
by Mike Callicrate
- 3 THE NCBA BEEF CHECKOFF CONTRACT; A Blatant, Fundamental and Egregious Conflict of Interest**  
by Fred Stokes
- 4 CENTER OF THE ROAD**  
by Richard Oswald
- 6 LOCAL FOOD WEEK**
- 7 ANNUAL CONFERENCE AGENDA**
- 8 GUIDELINES FOR AMS OVERSIGHT** by Fred Stokes
- 9 BRIEFING FOR USDA AMS ADMINISTRATOR ANNE ALONZO**  
by Fred Stokes
- 11 FOOD AND AGRICULTURE CONFERENCE REGISTRATION**



**Drought hits NSW and Qld farmers hard**  
Prime Minister Tony Abbott has left the way open to give drought-hit farmers more assistance, on top of the \$320 million package just announced by the Government, if the drought worsens.

*Disclaimer: The opinions of the authors presented in our newsletter are their own and are not intended to imply the organizations position. OCM has membership with diverse viewpoints on all issues. OCM is committed to one and only one principal; competition.*

FROM THE

# PRESIDENT

MIKE CALLICRATE

*I would  
personally like  
to invite everyone  
to attend our*

16th Annual  
**FOOD AND  
AGRICULTURE  
CONFERENCE**

*in Colorado Springs  
this year.*

Our conference this year will coincide with the Colorado Springs Local Food Week which will bring together stakeholders from the private and public sectors, local and national agriculture research and advocacy organizations to discuss the complex food security challenges.

On Friday, you will be particularly interested in some of OCM's specific issues: abusive market power, market predator control, government/industry insights and collaborative initiatives. Of special interest to many of us is regarding the checkoff. We will have a discussion on separating NCBA from the Beef Tax. These discussions are always interactive and educational and everyone's input is appreciated.

We have excellent speakers in our program, and as always, you won't want to miss anything. More conference information is available in this newsletter. Please plan on attending our conference in Colorado Springs this year.<sup>MC</sup>

# ocm

Organization for  
Competitive Markets

## BOARD MEMBERS:

**Mike Callicrate**, President

St. Francis, KS  
mike@nobull.net

**John Hansen**, Vice-President

john@nebraskafarmersunion.org  
Lincoln, NE

**Brother David Andrews**, Secretary

Washington, DC

**Don Stull**, Treasurer

Lawrence, KS

**Cap Dierks**

Ewing, NE

**David Hutchins**

West Mansfield, OH

**Judy Heffernan**

Rocheport, MO

**Vaughn Meyer**

Reva, SD

**Paul Muegge**

Tonkawa, OK

**Richard Oswald**

Langdon, Missouri

**Chris Petersen**

Clear Lake, IA

**Fred Stokes**, Past President

Porterville, MS

## STAFF:

**Pat Craycraft**, Office Manager

Lincoln, NE • 402-817-4443  
ocmlincoln@msn.com

## PROJECT ASSISTANTS:

**Jody Holland**, Starkville, MS

**Austin Vitale**, Intern

# The NCBA Beef Checkoff Contract;

## *A Blatant, Fundamental and Egregious Conflict of Interest*



FRED STOKES

### Through the Beef Checkoff, cattlemen have been funding their own demise!

To my bitter disappointment, the many efforts at reform of the cattle markets over the past 16 years have been frustrated by meat-packers and their minions. Chief minion has been the National Cat-

tlemen's Beef Association (NCBA). This organization is believed by many to be on the side of beef cattle producers. However, it has opposed every major market reform initiative; most notably the ban on packer ownership of cattle, Country of Origin Labeling (COOL) and putting the teeth back in the Packers and Stockyards Act of 1921 through the proposed GIPSA Rule.

To add insult to injury, this opposition to cattle producer interests has in effect, been underwritten by funds extracted from producers through the Beef Checkoff. The \$50 million or so that NCBA has received each of the past eighteen years has transformed them into a powerful political force and is in effect their very life blood. It has enabled them to effectively oppose reforms that would work to the interest of Checkoff-paying producers. Through the Beef Checkoff, cattlemen have been funding their own demise!

In July of 2010, it was widely reported that a performance review of the Checkoff Program by the Clifton Gunderson

Accounting Firm revealed a disturbing level of mishandled funds by NCBA, the program's prime (essentially exclusive) contractor. It is my understanding that the examination of only one percent of the transactions of a twenty-nine month period disclosed these blatant improprieties. This shallow examination resulted in a settlement between the Cattlemen's Beef Promotion and Research Board (CBB), the U.S. Department of Agriculture (USDA) Agricultural Marketing Service (AMS), and NCBA that required NCBA to return more than \$216,000 in misappropriated funds. Put another way, the \$216,000 in misused funds occurred in the equivalent of nine days of activity. This would suggest that these NCBA abuses were but the tip of the proverbial iceberg. No penalties were imposed, nor was there the suspension of NCBA's contract that would normally be expected in such circumstances. This was most disturbing!

Based on NCBA's reporting of membership numbers, they represent only one cattleman in thirty-three, yet they claim to be the voice of the cattle industry and are the prime contractor for a program supported by 100% of cattle producers. NCBA reportedly pays over seventy percent of its operating expenses from the Checkoff Program. There can be no doubt that these Checkoff funds have enabled NCBA in its advancement of meat packer interests over cattle producer interests.

In 2010, the U.S. Secretary of Agriculture expressed his concerns regarding the potential conflict of interest when a policy advocate, such as NCBA, becomes a Checkoff Program contractor. It was proposed that there be a "firewall" between the NCBA and state beef councils. The CBB Executive Committee, by unanimous vote, also expressed its preference for a structure in which no policy organization had influence on programming, budget or governance decisions. NCBA and its state affiliates successfully resisted this proposed separation. There is an inherent conflict of interest when a policy organization becomes a contractor for the Checkoff Program. Inevitably, contract funds will be

used to advance the policy agenda of the organization.

Secretary Vilsack has not been successful in his effort to bring about the separation of the NCBA and its affiliate State Beef Councils and this fundamental and illegal conflict continues. While his authority to compel separation is not clear, he unquestionably has the authority (and good reason) to terminate the NCBA Beef Checkoff contract. It is a classic example of conflict of interest and a glaring violation of the Program Act and Order, as well as AMS guidelines.

On June 10, a delegation which included OCM and others met with Secretary Vilsack and shared our concerns regarding the Beef Checkoff. We specifically asked that he take action to deal with the NCBA conflict of interest matter. A follow-up meeting was held with AMS Administrator Anne Alfonso and her key staff on July 21st. Again, the NCBA conflict of interest problem was the main point emphasized.

On August 14th, 20 representatives from a number of like-minded organizations met via conference call. This long-delayed coming together was a breakthrough. The group has now come to understand that folks with differing opinions (even differing interests) can rally around an issue they agree on and advance that issue. The call was a huge success. During this call, there were two highly significant agreements:

1. The outright rejection of the recent proposal for doubling of Beef Checkoff assessments and various other (suspect) changes in the program.
2. Agreement to sign on to a joint recommendation to Secretary Vilsack that he take decisive action to end the conflict of interest in Beef Checkoff contracting.

This is the first step of an ad hoc alliance which I believe will grow and drive reform of the Beef Checkoff through administrative, legislative and litigation actions.

I am heartened; stay tuned!

# Center <sup>OF</sup> THE Road | RICHARD OSWALD

Driving down the middle of the road is a common practice in rural areas where back roads are marked mostly by two bare tracks. Meeting requires that passing cars yield by splitting the track.

I remember once a long time ago when passing neighbors crunched bumpers on a gravel road. The law was called to establish liability for the crash. When a deputy arrived, he surveyed the scene. He determined no one was hurt, no tempers inflamed, no blows were struck.

That was that.

As he got back into his prowler car he told the drivers, "There is no center line on a country road. Figure it out for yourselves".

And back to town he went.

When it comes to country roads, farming, or neighbors, it's always better if everyone gives a little. And really, that's the way it is most of the time. But big boy politics combined with corporate money always seem to want their half from the middle and both sides.

Right to farm amendments are all the craze these days in conservative farm states as big Ag hogs the road. That's what happened during the Missouri August primary when Amendment 1 [http://ballotpedia.org/Missouri\\_Right-to-Farm,\\_Amendment\\_1\\_\(August\\_2014\)](http://ballotpedia.org/Missouri_Right-to-Farm,_Amendment_1_(August_2014)) was decided by about 25% of registered state voters. Proponents called it things like "a big thumbs up for agriculture" or "another tool in the toolbox of agriculture".

Amendment One backers told the world that agriculture in Missouri is under attack by animal welfare groups, nuisance lawsuits where manure spills and odors are courtroom fodder, and environmentalists led by the EPA who

want to turn Missouri into a parking lot for environmental laws and regulations making food and energy production impossible.

When detractors said the right to farm amendment looked more like the 'China's right to farm in Missouri amendment', we were told it was nothing like that, even though our state legislature had done special favors for Chinese owned Smithfield Foods by altering state laws to reduce nuisance lawsuit penalties, and increasing statutory limitations on foreign ownership of Missouri land. [http://youtu.be/\\_OYh-Kv\\_Tv88](http://youtu.be/_OYh-Kv_Tv88)

Like a greased pig at a Fourth of July picnic, it was nearly impossible to catch legislators at their game, because most voters never even heard about it until after the controversy erupted when the amendment was put forward.

For something they said only gave a modest thumbs up, there was an awfully lot of political support generated within the state for Amendment One. 90% of farm groups with large corporate affiliations and many of those corporations themselves (close to 40 in all) endorsed the amendment. Then all the Missouri Congressmen and Congresswomen endorsed it. Even the Democrats. And the Democratic state Attorney General did too.

With that much political support, I figured it had to be bad.

Only Governor Jay Nixon held back saying he leaned away from it....then he moved several Amendment issues ahead from the November General election to the light turnout primary in August.

We're still trying to figure out if that

hurt or helped. But city turnouts are higher in general elections, and city voters tend to vote 'no'.

But the real corker was when Mayor Francis Slay of St Louis endorsed Amendment One, saying he just wanted to extend a hand of friendship to farmers. I know it has nothing to do with it, but coincidentally Mayor Slay's administration has been trying to establish a trade hub in St Louis....with China. [http://en.m.wikipedia.org/wiki/Midwest-China\\_Hub\\_Commission](http://en.m.wikipedia.org/wiki/Midwest-China_Hub_Commission)

When amendment One was placed on the ballot by our General Assembly, polls showed 70% of voters in favor. But when a few small groups representing everyone from family farmers to environmentalists, and yes, even animal lovers, began opposing it, the 70% margin began to shrink. <http://themissouritimes.com/12064/press-release-newspapers-throughout-missouri-bash-amendment-1-harmful-vague-open-ended-farce/> By the time word got out to voters that, depending on how courts interpreted the vaguely written One, local control, family farms, our precious natural resources like water air and soil, and even our own supply of healthy locally grown food could be placed in jeopardy by runaway foreign owned industrial agribusiness.

Amendment One is a corporate lawyers dream.

Secretary of State Jason Kander has yet to certify election results because Amendment One passed by a narrow 2500 vote margin. Of one million votes cast, one-eighth of registered voters in Missouri approved One for all of us by a margin of three tenths of one percent. Now, because of that tight margin, Secretary Kander has ordered state voting precincts to count

Please see OSWALD on page 5

**" ... big boy politics combined with corporate money always seem to want their half from the middle and both sides ..."**



CALLICRATE (continued from page 1)

place. In Australia, smaller local and regional packers that once competed for livestock have been driven out of business by bigger global players. In drought-ravaged regions, lack of markets and slaughter plants are forcing cattlemen to watch their cattle starve to death. Others, closer to the few remaining large packing plants – which have mostly been taken over by multinational companies like JBS and Cargill – had no choice last week, but to sell at 48% of the value of the U.S. cattle market. Companies importing this beef, or multinational companies that bring it in from their foreign locations, have around a 30 percent cost advantage over U.S. companies that are committed to sourcing cattle and beef exclusively from domestic sources.

Isn't this likely the real reason that Chipotle has stopped doing business with local producers in favor of sourcing cheap meat from a huge multinational supplier than can bring it in from anywhere in the world? As the Texas Ag Commissioner pointed out in a recent letter, many domestic producers struggling to keep their ranches afloat would be happy to fill that demand.

Lack of labeling in restaurants and wholesale markets keeps consumers in the dark when they shop or eat out. Country of origin labeling (COOL) only applies to the retail grocery marketplace and only for



certain items. There are no rules requiring food service companies or restaurants to disclose where food comes from.

Local and regional companies selling to wholesale accounts and sourcing strictly U.S. beef have no chance to compete in the wholesale sector, which represents over 50% of total beef sold in the U.S. Even beef marked, "Born and Raised in the U.S.A." offers no marketing advantage when sold to food service companies and restaurants, without it being mandatory that the person buying the meal is informed about its source. Big food companies, along with USDA, write the rules of trade, intending to keep sources of meat secret, disadvantaging smaller packers and processors and denying consumers the information they need to make informed choices.

After an extraordinary consumer backlash, Pink Slime (a.k.a. Lean Finely Textured Beef) has snuck back into America's meat. Companies are again increasing their profits by secretly blending Pink Slime into their meat mixes. No label is re-

quired on the package. And even though the trim used for the process has proven to consistently contain live pathogens following the manufacturing process, there is no testing of the raw material or pathogen kill-step required – Consumers Beware!

Pink Slime, hidden in the grind of imported meat, gives big companies even more of an advantage over competitors that insist on selling high quality locally produced meat. Without the ability to clearly differentiate their product in a fair and open marketplace, our best and most valued producers – those who believe in quality and believe in supporting their local economies by keeping their business local – will continue to be driven out of business.

If we want a safe and secure national food supply that insures our ability to feed ourselves, it's time to restrict foreign imports and domestic trade in a way that protects all producers from predatory multinational meat companies. Country of Origin Labeling (COOL) should be mandatory for all meats sold to consumers, including the wholesale marketplace and restaurants. Dangerous additives like Pink Slime should be banned, or, at the very least, require prominent labeling on products, menus and signage at eating establishments<sup>MC</sup>

Link to the article: <http://nobull.mikecallicrate.com/2014/06/29/like-gm-food-companies-place-profits-over-safety-and-security/>

OSWALD (continued from page 4)

provisional ballots that are usually discarded uncounted following decisive electoral victories. No one knows how many of those there are, but it is conceivable they could overturn the election in favor of the "no" votes. Even if they don't, unless the margin of victory improves above .5%, state law says a recount can be called.

Still, that's a far cry from the 40% margin of victory big ag predicted at the start.

Like a friend of mine says, close only counts in horseshoes. But sometimes moral victories can be scored the same way.

Livestock has an odor to it. I grew up with those smells as well as tractor exhaust, dust, and noise. There were no enclosed farm

tractors then. Everyone sat in the open next to a roaring engine. Way back when, on hot summer days as the corn was laid by, it wasn't unusual to hear farm markets float in in on warm summer air from a mile or two away. That's because farmers turned tractor radio volumes up high as they could just to hear them.

Dad's standard comment from the front porch was always "Hell, I can probably hear that radio better than Skeeter can."

Chances are today, if Skeeter played his radio on the edge of town, someone would complain. And if the hog lot took on that special odor it always got after a rain, someone would complain about that too. No one liked that smell, least of all the farmer and his family who lived next to it.

But it's what we do.

And when a group of farmers including my family built the packing plant 5 miles west of town, it smelled bad too. People complained. But the farmers who invested life savings in a successful venture said it smelled like money to them. They did it all without special constitutional perks, because then as now, we had the right to farm without them.

And rural communities prospered.

The biggest difference now, is that back then, all of us including politicians, had a sense of accountability. You had to look your neighbors in the eye even when you didn't agree, and there always came the time when fate and the law of averages balanced the scales.

And we never hogged the road.<sup>RO</sup>

# Local Food Week

SEPTEMBER 13TH – 21ST, 2014

***(In coordination with OCM's 16th Annual Conference)***

<http://cspublicmarket.com/localfoodweek2014/>  
(Please note that times and venues are subject to change)

## FOOD TALKS -- CELESTE THEATER

CORNERSTONE ARTS CENTER AT COLORADO COLLEGE



14 East Cache La Poudre St. Colorado Springs, CO 80903

### ABOUT "FOOD TALKS"

This year the Organization for Competitive Markets (OCM) has coordinated their 16th Annual Conference to coincide with the Colorado Springs Local Food Week. And, the OCM Colorado Springs "Food Talks" Conference will bring together stakeholders from the private and public sectors, local and national agriculture research and advocacy organizations to present and collective answers to the complex food security challenges.

Participants will include college students

along with National Food Luminaries and Organizations actively involved in working to restore and improve local and regional food systems.

"Food Talk" activities are listed for your consideration if you are in Colorado Springs early. The OCM Conference will begin on Friday. Events are open to the public, please join us!

### ROOM RESERVATIONS

**Please make your reservation ASAP –  
Rooms are going fast!**

- Holiday Inn Express  
205 N. Spruce Street  
888-465-4329  
*Ask for Code EG3-OCM Annual Conference to get a special rate.*
- Econo Lodge Downtown  
714 N. Nevada Avenue  
719-636-3385
- Hampton Inn & Suites  
2910 Geyser Drive, 719-884-0330
- Quality Inn & Suites Central  
314 West Bijou Street, Bldg. A  
719-471-8681

All "Food Talks" will be broadcasted live as well as captured for future reference.

## SATURDAY, September 13

- 11AM – 3PM **PPUG's Fifth Annual Garlic & Chili Fest** at Summerland Gardens. \$10 per person (children six and under free).
- 12PM – 4PM **Colorado Springs Urban Homesteaders Tour**, four houses each day, total of eight homesteads. Free event.

## SUNDAY, September 14

- 5PM – 9PM **Colorado Springs Community Dinner** presented by SEEDS Community Cafe at Venetucci's The Barn. Space is limited.
- 12PM – 4PM **Colorado Springs Urban Homesteaders Tour**, four houses each day, total of eight homesteads. Free event.
- 2PM – 6PM **Beer, Meat and Fire** sponsored by Bristol at Ivywild. Booths with local chefs paired with local farmers

## MONDAY, September 15

- 1PM – 3PM **Small Urban Farming** with Craig McHugh
- 6PM – 9PM **GMO OMG** movie screening sponsored by Pikes Peak Permaculture at Penrose Library

## TUESDAY, September 16

- 9AM – 11AM **Small Urban Farming** with Craig McHugh
- 12PM – 1PM **Lunch with Mike Callicrate** featuring Real Callicrate Beef

## WEDNESDAY, September 17

### "FOOD TALKS: COMMUNITY"

ALL SESSIONS ARE FREE EVENTS WITH FIRST COME, FIRST SEATED

- 8AM – 11AM **SBDC**
- 3PM – 5PM **Colorado College**
- 6PM – 9PM **Hanna Ranch Movie Screening**

## THURSDAY, September 18

### "FOOD TALKS: LOCALVESTING"

ALL SESSIONS ARE FREE EVENTS WITH FIRST COME, FIRST SEATED

- 1:00 PM **COLORADO COLLEGE FOOD COALITION**-Adison Petti – Leadership Development Coordinator
- 2:00 **FOOD POLICY**  
-Jill Gaebler – CS City Council Woman District 5  
- Michael Brownlee – Local Food Shift  
- Larry Stebbins – Pikes Peak Urban Gardens
- 3:00 **VITAL ECONOMICS**  
- Judy Wicks – White Dog Café, BALLE  
- Michael Shuman – BALLE  
- Woody Tasch – Slow Money  
- Dave Anderson – CS Public Market
- 4:00 **CORNERED**  
- Barry C Lynn – New America Foundation
- 6:00 **BENEFIT DINNER**  
**BEMIS HALL WITH KEYNOTE PRESENTATION**  
- Barry C Lynn – New America Foundation  
- Dinner \$75 with Proceeds to benefit "Food Talks"  
- Capacity is 100 – Reservations Required

## FRIDAY, September 19

### "FOOD TALKS: AGTIVISM & OCM ANNUAL CONFERENCE"

ALL SESSIONS ARE FREE EVENTS WITH FIRST COME, FIRST SEATED AGENDA (Tentative)

- 9:00 AM **ADDRESSING ABUSIVE MARKET POWER**  
- Wenonah Hauter – Food & Water Watch  
- Chris Leonard – The Meat Racket
- 10:30 AM **SEPARATING NCBA FROM THE BEEF TAX (BEEF CHECKOFF) WHAT'S NEXT FOR BEEF CHECKOFF?**  
- Tim Danahey – Tim Danahey Show  
- Fred Stokes – Organization for Competitive Markets  
- David Wright – President, Independent Cattlemen of Nebraska (ICON)
- 12:00 – 12:45: **LUNCH ON YOUR OWN**- Lunch Available at RASTALL DINING HALL
- 1:00 PM **PREDATOR CONTROL**  
**HOW TO PROTECT NEW COMPETITORS**  
-Diana Moss – Antitrust Institute  
- Dr. C. Robert Taylor – Auburn University Alfa Eminent Scholar Ag Economics And Public Policy.
- 2:30 PM **GOVERNMENT / INDUSTRY INSIGHTS**  
- Dave Murphy – Food Democracy Now!  
- Joe Maxwell – Humane Society of the United States (HSUS)
- 4:00 PM **COLLABORATIVE INITIATIVES**  
- Mike Callicrate – Ranch Foods Direct  
- Wayne Pacelle – Humane Society of the United States (HSUS)
- 6:00 **BENEFIT DINNER BEMIS HALL WITH KEYNOTE PRESENTATION**  
- Chris Leonard – The Meat Racket  
- Dinner \$50 with Proceeds to benefit "OCM".  
Capacity is 100 – Reservations Required

## SATURDAY, September 20

### OCM ANNUAL MEMBERSHIP MEETING

- 9:00 AM **BOARD ROOM**  
Clarion Hotel, 314 W. Bijou Street, Colorado Springs, CO. – 719-329-7457

Please see LOCAL FOOD WEEK on page 10

# Guideline for AMS Oversight of Commodity Research and Promotion Programs.

## *Conflicts of Interest in Research and Promotion Programs*

As a general matter of policy, the Agricultural Marketing Service (AMS) guidelines for oversight of all checkoff programs expressly require contracting procedures that “avoid any conflict of interest or a situation that could reasonably be perceived by a third party as a conflict of interest.”<sup>1</sup> The Beef Order includes provisions that reflect these principles, as well. Before service on the board or as a Federation representative on the Beef Promotion Operating Committee members must first agree to “disclose any relationship with any beef promotion entity or with any organization that has or is being considered for a contractual relationship with the Board or the Committee.” 7 C.F.R. 1260.144(b), 7 C.F.R. 1260.161(c). The requirement for such disclosures serves as strong indication that the beef checkoff program, like all the checkoff programs, was designed to ensure that conflicts of interest in contracting or operations are strictly prohibited. Indeed, if the Secretary was not able to prohibit conflicts of interests involving board and Committee members, the mandated disclosures in the Beef Order would serve little, if any, purpose at all.

AMS has acknowledged its responsibility to prevent conflicts of interest in contracting procedures and other checkoff activities. When the agency conducted a management review of the beef checkoff program in 2013, the agency stated that it ensured that the board required a “Code of Ethics and conflict of interest disclosure agreement for employees and board members.”<sup>2</sup> The agency also noted the duty to report conflicts of interest (of others) and a whistleblower protection policy, thereby indicating the seriousness that is placed on protecting the integrity of the checkoff from improper influence.<sup>3</sup>

Preventing conflicts of interest in contracting procedures and other checkoff activities is well within the power of the Secretary and the beef board. No contract may be awarded without the support of the board (which controls half the seats on the operating Committee) and the approval of the Secretary. Nothing in the Beef Act or Order makes the Secretary’s approval of contract requests either automatic or mandatory. It is within the Secretary’s discretion to determine whether a given contract is a lawful and reasonable expenditure that furthers

the purpose of the checkoff program, and to reject any that fail to achieve this objective. Any contract that does not comply with

<sup>1</sup> Guidelines for AMS Oversight of Commodity Research and Promotion Programs, p. 5, USDA, June 2012; see also Audit Report: Agricultural Marketing Service’s Oversight of Federally Authorized Research & Promotion Board Activities (01099-0032-HY), p.5, USDA Inspector General, March 2012 (Among the “critical responsibilities” of AMS oversight is to ensure that boards do not “engage in actions that would be a conflict of interest.”)

<sup>2</sup> Management Review Report of the Cattleman’s Beef Promotion and Research Board, USDA Agricultural Marketing Service, 2013, p.5.

<sup>3</sup> It is of no material significance that the guidelines and report speak in terms of “boards” and not “committees” or “federation” representatives. First, the Beef Order requires that federation representatives wishing to serve must submit the same conflict disclosure as board members, which clearly evidences intent to treat them the same for such purposes. Second, both the board and the federation are creations of the Beef Act and Order directives, both operate under rules and policies established by the Act and Order, and the duties of both are established by the Act and Order; thus, there is no basis for distinguishing between them with respect to program policies that are directed at protecting the integrity of producer-invested funds.

the Act, Order, or oversight guidelines that govern the proper operation of checkoff programs should be rejected. Producer funds are “entrusted” to the Committee. See 7 U.S.C. 2904(7)(C). If a contract has been improperly awarded because of a conflict of interest between a Committee member’s fiduciary duty to the producers funding the checkoff and to a parent company’s financial interest in the contract, the Secretary should reject any request for approval of that contract.

Further, board members are bound by the guidelines to protect the contracting procedure itself. Any contracting procedures that permit conflicts of interest, or even the appearance of conflicts, must be disallowed. Thus, board members should not approve (or even allow) any contracts that have been awarded by a procedure that involved participation by voters with conflicts of interest between their fiduciary duties to producers and to bidders for the producer’s funds.<sup>4</sup>

### **Prohibition against Preferential Treatment to Private Organizations**

In addition to its prohibition against conflicts of interest, the Code of Ethics required by the agency guidelines also prohibits “[g]iving preferential treatment to any private or-

ganization or individual.”<sup>5</sup> The prohibition against giving any preferential treatment to any private entities is called into question not only because of the grossly disproportionate percentage of checkoff contracts awarded to NCBA exclusively, but to the limited number of organizations which receive checkoff contracts at all. Despite the Beef Board’s own acknowledgement that “[d]ozens of organizations qualify” for checkoff contracts, just six—the same six—actually receive contracts year after year after year.<sup>6</sup>

It is difficult to imagine a scenario that more clearly signals the appearance of preferential treatment than granting tens of millions of producer-funded contracts every year to the same select handful of private organizations and excluding the dozens of others who are annually eligible. And, not surprisingly, the signal is amplified exponentially when the group receiving the bulk of the checkoff funds is the parent entity of half the Committee members voting on the contracts. Any enforcement policy that is geared toward avoiding preferential treatment (or even the appearance of preferential treatment) should set annual caps and trigger points to prevent any private entity from establishing a monopoly on checkoff contracts. For example, the agency could implement the “preferential treatment” prohibition by capping annual checkoff contracts at a certain percentage for any single organization.

<sup>4</sup> NCBA has declared on its IRS Form 990 that all of the organization’s employees are required to sign conflict of interest policies, which include the potential for termination if violated.

<sup>5</sup> AMS Oversight Guidelines, pp. 20-21.

<sup>6</sup> See <http://www.beefboard.org/about/contracting.asp>.

Producer funds are protected by ensuring an open and competitive bidding process that leads to the most effective checkoff activities at the most efficient costs. Letting the Federation award more than 80% of the annual checkoff contracts to its parent entity and the rest of the contracts to just five other organizations effectively destroys the competitiveness of the bidding process and puts producers at the mercy of the improperly preferred entities.

Please see CONFLICTS on page 10

# Briefing for USDA AMS Administrator Anne Alonzo



FRED STOKES

Ms. Alonzo, I am Fred Stokes representing The Organization for Competitive Markets (OCM), a sixteen year old non-profit advocate for a fair marketplace for what farmers and ranchers buy and what they sell. In other words, we want the game to be straight. I thank you for giving us this opportunity to express our concerns regarding the Beef Promotion and Research Program, commonly known as the Beef Checkoff.

OCM has associated itself with other like-minded groups, including the Humane Society of The United States (HSUS) in an effort to reform and restore integrity and the cattle producer's confidence in the Beef Checkoff, a program that in our view has run awry.

We met with Secretary Vilsack on June 10 and made the following points:

1. Although the Beef Checkoff program has collected and spent some billion dollars, it has been an abject failure.

2. The essentially exclusive contractor for the program, NCBA, was revealed to have misappropriated funds and is acting as an adversary to checkoff-paying cattlemen.

3. AMS has a history of deficient administration of the program.

4. We feel that the USDA OIG's audit was severely lacking and was a white-wash.

5. USDA OIG has not properly responded to OCM's FOIA requests for material that was the basis for the OIG Audit Report.

6. David Wright, A CBB member, presented hard facts showing NCBA's undue influence over the CBB and their many abuses of the Beef Checkoff program.

Since we have a bit more time, I would like to go into a more detail today.

I was personally involved in the effort to bring about the Beef Checkoff. During the seventies and early eighties, chickens were rapidly encroaching on beef's market share. There were bumper stickers that said, "support the beef industry, run over a chicken." I believed that cattlemen should fund a program that promoted their product and thereby their interests.

It took three referendums to get the program passed. However, we envisioned a U. S. Beef program, not one that promoted beef from our foreign competitors; who play under a different set of rules.

So after 29 years of operation, how has the program performed?

1. The per capita consumption of beef has gone down from 78 pounds in 1985 to 53 pounds today.

2. The per capita consumption of chicken has gone up from 53 pounds to 85 pounds.

3. More than 40% of our beef cattle producers have gone out of business.

4. The beef cattle herd has been significantly reduced in numbers. This year's calf crop is the smallest since 1941.

5. **These are the disappointing measures of a failed program.**

Cattle prices are currently at record levels (and so are input costs), but the recent prices being experienced by today's cattlemen are the result of market failure, not a competitive market. The lack of a fair and open marketplace has caused decades

of low prices, forcing producers out of business and reduced cattle numbers well below demand. This is largely the result of cattlemen's beef checkoff dollars being diverted to NCBA, an aggressive policy advocate of meat packers and big retailers rather than the checkoff paying cattle producers. In 1996, NCBA became the prime contractor for the Beef Checkoff Program. It has generally received some \$50 million of the \$80 million collected by the program each year, for a total of some \$900 million. This represents more than 80% of NCBA's total revenue. These funds have allowed NCBA to become politically powerful and influential in farm policy and farm publication perspectives.

The large media buys NCBA makes biases farm publication editorial points of view and content toward that of the NCBA. In addition, many of the ads are aimed at checkoff payers, promoting the program rather than beef.

**Let me just state that in my view, cattlemen are being compelled to fund their own demise.**

Your agency is charged with oversight of the Beef Checkoff as well as the several other commodity promotion programs which collectively bring in more than 500 million dollars annually. Under previous leadership, AMS has established a poor history of performance.

At least two USDA OIG audits have found the agency deficient in its oversight of these programs. Recommendation for remedial actions were made and agreed to by AMS but thus far, no significant changes appear to have been made.

Someone from this agency is supposed to sign off on all disbursements of

Please see BRIEFING on page 10

---

***We see NCBA, with its pro meat packer agenda, its eighteen-years as essentially the exclusive contractor for the Beef Checkoff, its de facto control over the program and its relationship with the CBB as the MOTHER OF ALL CONFLICTS OF INTEREST.***

checkoff funds. We are aware of several significant disbursements that have no apparent relevance to beef promotion and tend to support the notion that the Beef Checkoff is a nothing more than an NCBA slush fund.

A USDA OIG audit of the Beef Checkoff was begun in February of 2011, with its investigative work completed in December of that year. For more than fifteen months after the investigative phase, the report writers pondered and deliberated, generating more than 3000 pages of drafts for a seventeen page report.

The report effectively exonerated NCBA of wrongdoing, and was viewed by many as an outright whitewash and cover-up. Amidst a great deal of criticism, it was recalled and released again in January of this year. The most significant change was the removal of the verbiage pertaining to NCBA's innocence.

USDA OIG has been less than responsive to OCM's FOIA request for material supporting the findings in the audit report. There has been a great deal of delay. However we are determined to learn why the OIG Audit Report was in stark variance with what we believed to be the evidence.

NCBA has long exercised undue control over the CBB and the contract award process. They have used their veritable lock on the CBB committee that awards Beef Checkoff contracts and used that lock to consistently award the contract to themselves. As an attorney you can understand this blatant conflict of interest.

David Wright, a Beef Board Member who has long decried NCBA's lock on contract awarding and their running roughshod over the CBB, will share some interesting information on this.

NCBA has been clearly demonstrated to be a mere tool of the meat packers and has consistently opposed actions benefiting producers. NCBA being a plaintiff in the lawsuit aimed at blocking the long-delayed implementation of COOL is but one example of their adversarial relationship with cattlemen.

We see NCBA, with its pro meat packer agenda, its eighteen-years as essentially the exclusive contractor for the Beef Checkoff, its de facto control over the program and its relationship with the CBB as the **MOTHER OF ALL CONFLICTS OF INTEREST.**

The Beef Checkoff Program is rife with problems and shortcomings. This is especially true since it was made a government tax by the Supreme Court ruling that these mandated collections are not a violation of the First Amendment but rather "government speech". The problems with the program itself will likely require a legislative remedy that will be contentious and time consuming. But the bleeding needs to be stopped now. There can be an almost immediate administrative fix that could separate NCBA from receiving any checkoff dollars.

The most egregious ill resulting from the program is not that beef cattle producers are compelled to fund a program that doesn't work; **but rather that they are made to provide funds in support of an organization that actively works against their interests.**

You are in a position to make a big difference. We ask that under your administration you see that AMS properly administers the Beef Checkoff program and further, we ask that you assist us in persuading Secretary Vilsack to use the powers, that we are convinced he has, to rule that policy organizations acting as contractors constitute a conflict of interest, and are therefore precluded from receiving checkoff funds. We would be most happy to assist in any way possible.

FS

LOCAL FOOD WEEK (continued from page 7)

## SATURDAY, September 20

- 8AM - 1PM

POOPAPALOOZA IV 4th Annual Spread Manure, Sprout Hope: Hormone- & Antibiotic-Free Manure Stimulus Event | Garden of the Gods PowWow Roc Ledge Ranch. Local Title VII (federal Indian Education Program) Committee hosts a booth focusing on Native gardening, eating traditional food, harvesting local plants and giving away seeds from different reservation communities.

- 9AM - 11AM

Wild Edibles Workshop at Venetucci Farm. \$20.00.

- 9AM - 1PM Galileo Middle School Garden Open House, Presentation at 10:00 a.m. - "Local Food, Public Schools, and Educating Young Learners"

## SUNDAY, September 21

- 6AM - 8PM MANI.FEST, A one-day, citywide well-being event held in beautiful Manitou Springs

CONFLICTS (continued from page 8)

## Prohibition against Use of Funds to Influence Legislation or Government Policy

Although the prohibition against using checkoff funds for legislation is generally outside the scope of the conflict of interest issue that is being addressed here, the two issues intertwine and become all the more critical when the fiduciary conflict that arises is between a duty to the checkoff program and a duty to a policy organization. The prohibition against using checkoff funds to influence legislation or government policy is undisputed. The specific wording of the Beef Act defines this prohibition with sweepingly broad terms. It prohibits checkoff funds "from being used in any manner for the purpose of influencing governmental action or policy." 7 U.S.C. 2904(10) (emphasis added). AMS has allowed policy organizations to be checkoff contractors so long as checkoff funds are not directly used in violation of this prohibition. The agency has not, however, prohibited contractors from splitting expenses for internal operations in a way that furthers policy activities. Because NCBA's annual checkoff revenues are *ten times higher* than its membership revenues, the expenses covered by producer funds significantly enhance NCBA's total operations, including its policy activities.<sup>7</sup>

## Conclusion

The Secretary has the authority and duty under the Beef Act, Order, and oversight rules to ensure that expenditures are lawful and fulfill the purpose of the checkoff program. Expenditures requested for the Secretary's approval that are made in violation of law, regulation, or enforcement guidelines designed to protect the integrity of the checkoff should be rejected.<sup>8</sup> Secretary Vilsack noted in his 2010 letter to NCBA that those funding the checkoff "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." It is within the Secretary's

<sup>7</sup> It has often been suggested that NCBA keeps a "financial firewall" in place to prevent checkoff and non-checkoff funds from being mixed. But financial firewalls do not resolve the conflicts and operational issues discussed in this letter. A single law firm would not be able to represent opposing parties in the same case, regardless of whether they created a financial firewall that kept the funds separated. In the case of the beef checkoff specifically, NCBA cannot be expected to act with equal vigor toward implementing

Please see CONFLICTS on page 11

# REGISTRATION FORM



**FRIDAY  
SEPTEMBER 19  
2014**

Colorado College  
Colorado Springs, CO

*(All Sessions are free events  
with limited seating)*

Name(s): \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Email: \_\_\_\_\_

**REGISTRATION** includes all day Conference on Friday,  
September 19 beginning at 8:00 AM

\_\_\_ **Number attending OCM Conference**

\_\_\_ **Number attending 2014 OCM Banquet  
@ \$50.00**

\$ \_\_\_\_\_

\_\_\_ **Attending Membership Meeting  
Saturday Morning September 20**

**Make check payable to:  
OCM, P. O. Box 6486, Lincoln, NE 68506**

## CONFLICTS (continued from page 10)

producer interests and its own policy positions that conflict with such interests, e.g., mandatory country of origin labeling.

<sup>8</sup> See AMS Guidelines at p. 2 (AMS' "critical" oversight role is to "ensure compliance with all applicable legislation, regulations, and policies.")

authority to directly provide such concrete assurance to producers and importers by enforcing the prohibition against conflict of interests in the checkoff contracting process, by ensuring that no private organization re-

ceived preferential treatment (or anything close to a checkoff contract monopoly), and by preventing any entity's policy activities from being enhanced by substantially increased revenues and shared expenses with checkoff funds.<sup>FS</sup>



Organization for  
Competitive Markets

Tel: (402) 817-4443

P.O. Box 6486

Lincoln, NE 68506

NON-Profit ORG  
U.S. POSTAGE PAID  
Lincoln, NE  
PERMIT #1734  
68506

ADDRESS SERVICE REQUESTED

JULY-SEPTEMBER 2014

**16TH ANNUAL FOOD  
& AG CONFERENCE**  
SEPTEMBER 19, 2014  
COLORADO SPRINGS, CO

**REGISTER TODAY**  
SEE PAGE 11

**BECOME  
A MEMBER  
TODAY!**

Name\_\_\_\_\_

Address\_\_\_\_\_

City/State/Zip\_\_\_\_\_

MAIL: **OCM, P. O. BOX 6486, LINCOLN, NE 68506**

EMAIL: **ocm@competitive markets.com**

WEB: **CompetitiveMarkets.com**

