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ATTORNEYS FOR CANADIAN CATTLEMEN'S ASSOCIATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

RANCHERS CATTLEMEN ACTION LEGAL FUND UNITED STOCKGROWERS OF AMERICA,	Cause No. CV-05-06-BLG-RFC
Plaintiff,	
v.	**CANADIAN CATTLEMEN'S ASSOCIATION MOTION FOR LEAVE OF COURT TO FILE BRIEF AMICUS CURIAE IN OPPOSITION TO PLAINTIFF'S APPLICATION FOR PRELIMINARY INJUNCTION**
UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, et al.,	
Defendants	

The Canadian Cattlemen's Association ("CCA") by its undersigned counsel, hereby moves for leave of court to file the brief amicus curiae filed herewith, opposing the Plaintiff, Ranchers Cattlemen Action Legal Fund United Stockgrowers of America ("R-CALF") application for a preliminary injunction in the above captioned proceeding and states:

1. The CCA is a national organization representing the interests of Canada's more than 90,000 beef producers. The CCA has been involved in efforts to normalize beef and cattle trade between the United States and Canada and in the development of uniform scientific standards that appropriately address the manageable risks posed by Bovine Spongiform Encephalopathy ("BSE").

2. The CCA has both a significant economic interest in the outcome of this proceeding, and an equal and related interest in how the United States structures and implements its BSE regulations. As the U.S. and Canadian beef and cattle markets are viewed internationally as largely integrated, the policy decisions and standards established in either country have an impact on the industries of both in their ability to trade internationally.

3. The CCA has submitted comments at all stages of the rulemaking process that culminated in the publication by the United States Department of Agriculture's Animal and Plant Health Inspection Service ("USDA/APHIS") of the final rule and notice entitled "Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities," 70 Fed. Reg. 460 (January 4, 2005) ("Final Rule").

4. The CCA is in a unique position to provide this Court with accurate and current information regarding the volume of cattle and beef that would be available or likely to enter the U.S. market upon implementation of the Final Rule. Such information should be useful to the Court in evaluating the Plaintiff's claim that it will be substantially and irreversibly harmed by "a

flood of cheap cattle and meat from Canada." *See* R-CALF's Memorandum of Points and Authorities in Support of Plaintiff's Application for Preliminary Injunction ("R-CALF Memo") at 36.

5. R-CALF and its expert, John J. VanSickle, Ph.D., have also premised claims of economic harm on speculations concerning domestic consumer and foreign market reactions to the discovery of limited cases of BSE in Canada and the U.S. *See* R-CALF Memo at 37-38; Declaration of John J. VanSickle at ¶¶11, 12, 15-18. The CCA can offer this Court specific contrary factual information regarding both consumer and foreign market reactions to BSE in North America.

6. Counsel for the CCA sought consent to file a brief amicus curiae from R-CALF and USDA/APHIS. USDA/APHIS does not object to CCA's motion; R-CALF would take no position on CCA's motion until it could review the filings.

Based on the foregoing, the CCA respectfully requests that its motion for leave to file a brief amicus curiae in this matter be granted and that the Court accept for filing the appended proposed brief amicus curiae in opposition to R-CALF's application for preliminary injunction.

DATED this _____ day of February, 2005.

Respectfully submitted,

_____

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*Motions for admission *pro hac vice* are being submitted.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing Canadian Cattlemen's Association Motion for Leave of Court to File Brief Amicus Curiae, and the proposed Brief Amicus Curiae in Opposition to Plaintiff's Application for Preliminary Injunction, to be hand delivered to:

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Plaintiff,	**BRIEF AMICUS CURIAE OF THE CANADIAN CATTLEMEN'S ASSOCIATION IN OPPOSITION TO PLAINTIFF'S APPLICATION FOR PRELIMINARY INJUNCTION**
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I. INTRODUCTION AND INTEREST OF AMICUS

The Canadian Cattlemen's Association ("CCA") is a national organization representing the interests of Canada's more than 90,000 beef producers. The CCA has been actively involved in the development and implementation of measures in Canada to ensure the health of Canadian cattle and the high quality and safety of beef products derived from Canadian cattle. The CCA has submitted comments at all stages of the development of the Final Rule issued by the United States Department of Agriculture/Animal and Plant Health and Safety Administration ("USDA/APHIS") on January 4, 2005 concerning the establishment of Bovine Spongiform Encephalopathy ("BSE") "minimal risk regions" and the designation of Canada as such a region ("Final Rule").[1] While the CCA is an advocate for the normalization of cattle and beef trade between the United States and Canada, it is also an advocate for the implementation of sound and science-based policies to ensure the health of consumers and to encourage uniform standards of international trade that appropriately address the manageable risks presented by BSE.

The CCA submits this amicus curiae brief in order to provide information to the Court that it is uniquely positioned to supply and that will not otherwise be presented to this Court. In particular, the CCA's amicus brief responds to certain economic arguments raised by the Plaintiff, the Ranchers Cattlemen Action Legal Fund United Stockgrowers of America ("R-CALF"). The CCA clearly brings a different perspective to these economic issues, particularly as they relate to the volume and flow of cattle projected to enter the United States from Canada and the Canadian industry's experience with BSE, than either the USDA/APHIS or R-CALF.

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[1] "Bovine Spongiform Encephalopathy: Minimal Risk Regions and Importation of Commodities," 70 Fed. Reg. 460 (Jan. 5, 2005).

II. R-CALF CANNOT MEET THE STANDARD REQUIRED FOR ISSUANCE OF A PRELIMINARY INJUNCTION

The Ninth Circuit has recognized a "traditional standard" and an "alternative standard" for determining whether a preliminary injunction should be issued and the "irreparable harm" element is treated differently under these two standards. The Court concisely explained the standards in *International Jensen, Inc. v. Metrosound U.S.A., Inc.*, 4 F.3d 819, 822 (9th Cir. 1993):

> Traditionally, a court may issue a preliminary injunction if it determines: (1) the moving party will suffer irreparable injury if the relief is denied; (2) the moving party will probably prevail on the merits; (3) the balance of potential harm favors the moving party; and, depending on the nature of the case, (4) the public interest favors granting relief. *Cassim v. Bowen*, 824 F.2d 791, 795 (9th Cir. 1987). This court has also adopted an "alternative standard" under which the moving party may meet its burden by demonstrating *either:* (1) a combination of probable success on the merits and the possibility of irreparable injury if relief is not granted; or (2) the existence of serious questions going to the merits and that the balance of hardships tips sharply in its favor. *Id.* The alternative standards "are not separate tests but the outer reaches of a single continuum." *Regents of Univ. of Cal.*, 747 F.2d at 515. Essentially, the trial court must balance the equities in the exercise of its discretion. *Id.*

Thus, under the "traditional standard" a plaintiff must show that he "will suffer irreparable injury if the relief is denied." Under the "alternative standard", the plaintiff may succeed by showing a possibility of irreparable harm *only* if he can demonstrate probable success on the merits or by showing that the balance of hardships tips sharply in its favor. However, even the "possibility" of irreparable harm requires a showing that is more than speculative. Thus, in *Caribbean Marine Services Company, Inc., et al,* 844 F.2d 668, 674 (9th Cir. 1987), the Court held that:

> At a minimum, a plaintiff seeking preliminary injunctive relief must demonstrate that it will be exposed to irreparable harm. Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction. A plaintiff must do more than merely allege imminent harm sufficient to establish standing; a plaintiff must demonstrate immediate threatened injury as a prerequisite to preliminary injunctive relief.

Id. (internal citations omitted). R-CALF does not meet this standard.

Moreover, to the extent that R-CALF is claiming economic harm, it is well established that mere financial injury is insufficient to satisfy the irreparable injury prerequisite to a preliminary injunction. *Sampson v. Murray*, 415 U.S. 61, 90 (1974); *Goldie's Bookstore, Inc. v. Superior Court of State of California*, 739 F.2d 466, 471-472 (9th Cir. 1984); *Los Angeles Memorial Coliseum Commission v. National Football League*¸ 634 F.2d 1197, 1202 (9th Cir. 1980).

Likewise R-CALF's speculative claims of non-economic irreparable harm also fall well short of demonstrating probable success on the merits, as even the cases cited by R-CALF acknowledge that a court must be deferential to "the agency's expertise in situations, like that here, where 'resolution of this dispute involves primarily issues of fact.'…Deference is particularly important 'when the agency is 'making predictions, within its areas of special expertise, at the frontiers of science'". *Arizona Cattle Growers' Association v. United States Fish and Wildlife, Bureau of Land Management*, 273 F.3d 1229, 1236 (9th Cir. 2001) (internal citations omitted); *See also, Harlan Land Co. v. United States Dept. of Agriculture,* 186 F.Supp. 2d 1076, 1084 (E.D.Ca. 2001) ("Deference to an agency's technical expertise and experience is particularly warranted with respect to questions involving… scientific matters.") (internal citations omitted). USDA/APHIS conducted a lengthy and thorough review of all comments and published a well-reasoned Final Rule addressing those comments in great and sound detail. That R-CALF disagrees with USDA/APHIS' experts or policymaking decisions, does not entitle it to prevail on its motion for a preliminary injunction, nor does it support its position on the merits.

In *Cellular Phone Taskforce v. Federal Communications Commission*, 205 F.3d 82 (2nd Cir. 2000), the Second Circuit upheld the FCC's adoption of guidelines concerning non-thermal effects of radiation and certain maximum permitted exposure levels. The petitioners in that case

claimed that the FCC was arbitrary and capricious in enacting the guidelines at issue by failing to adequately consider the evidence of harmful effects from non-thermal levels of radiation, ignoring expert recommendations that would restrict the regulatory regime and failing to account for the cumulative effects of radiation in creating categorical exemptions for certain facilities from routine environmental assessment. *Id.* at 89. In discussing the standard for finding an agency's action to be arbitrary and capricious, the Court stated:

> "The reviewing court must take into account contradictory evidence in the record, but the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." American Textile Mfr. Inst., Inc. v. Donovan, 452 U.S. 490 (1981)… When an agency makes a decision in the face of disputed technical facts, "[a] court must be reluctant to reverse results supported by …a weight of considered and carefully articulated expert opinion."…The agency's action should only be set aside where it "relied on factors which Congress has not untended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the products of expertise."

Id. (some internal citations and quotation marks omitted). With respect to the specific arguments presented in that case, the parties did not dispute that RF radiation at excessive levels has thermal effects, which were addressed in the FCC guidelines. The parties disagreed, however, as to the FCC's failure to account for non-thermal effects in the guidelines. The court reviewed the competing expert views of the non-thermal effects, one relied on by the government that found that no reliable scientific data existed to indicate that non-thermal exposure may be related to human health, and another expert view that found that the existence of non-thermal effects was clouded by a "host of conflicting reports and opinions." *Id.* at 90. Similar to the Ninth Circuit in

Arizona Cattle Growers, the court held that "[i]n the face of conflicting evidence at the frontiers of science, courts' deference to expert determinations should be at its greatest." *Id*.[2]

The court held that the petitioners' argument that "the FCC should create greater safety margins in its guidelines to account for uncertain data is a policy question, not a legal one." *Id.* at 91. The court stated:

> As a policy matter, an agency confronted with scientific uncertainty has some leeway to resolve that uncertainty by means of more regulation or less.

Id. Here, USDA/APHIS has thoroughly considered all of the comments and developed a rational policy premised on extensive support. That R-CALF and others may disagree, or even present conflicting data, is not sufficient to show a likelihood or a probability of prevailing on the merits.

Finally, R-CALF cannot show that any of its speculative injuries tip the balance of hardships sharply in its favor. While R-CALF places before this Court wholly speculative injuries based on concerns that have already been addressed by USDA/APHIS, other U.S. entities, such as the beef packing industry, have suffered and continue to suffer real and calculable injury each and every day that the Canadian border remains closed.

III. R-CALF'S CLAIMS OF ECONOMIC INJURY ARE NOT SUPPORTED BY THE FACTS

The CCA defers to the briefs of the USDA/APHIS and the Government of Canada to address the food safety and animal health issues raised by R-CALF. The CCA is submitting these comments primarily to rebut R-CALF's economic arguments.

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[2] *See also, Harlan Land Co. v. United States Dept. of Agriculture,* 186 F.Supp.2d at 1084 ("When specialists express conflicting views, an agency must have discretion to rely on the measurable opinions of its own qualified experts even if, as an original matter, a court might find contrary views more persuasive.") (internal citations omitted).

The CCA requested agricultural economist Daniel A. Sumner, Ph.D. to review the declaration by John J. VanSickle, Ph.D., submitted in support of R-CALF's motion for a preliminary injunction filed in this matter. Dr. Sumner's Declaration is appended hereto as Attachment 1. Dr. Sumner, whose full credentials and experience are detailed in Exhibit A to his Declaration, has conducted extensive research and authored publications concerning trade in the U.S. and international beef and dairy markets. Dr. Sumner takes issue with many of the conclusions offered by Dr. VanSickle. While Dr. VanSickle's declaration expresses his opinions with respect to a number of issues raised by R-CALF in this litigation, many of these opinions lack empirical support, are premised on mistaken use of economic models and/or misinterpretation of modeling approaches, or are merely speculative. By way of example only and not by limitation, several specific problems with Dr. VanSickle's claims are discussed below.

Dr. VanSickle contends that adverse economic impacts on R-CALF members from implementation of the Final Rule can be anticipated as a result of (a) an "increased supply of cattle and beef entering the U.S. market"; (b) "continued restrictions on U.S. exports because of the higher risk of BSE contamination in the Canadian-origin beef that will be co-mingled with domestic beef"; and (c) "reduced domestic beef consumption because of heightened BSE fears resulting from Canadian imports." VanSickle Declaration at ¶7. These predictions by Dr. VanSickle are either purely speculative and unsupported by data or analysis or are simply inaccurate. Therefore, the predictions of Dr. VanSickle do not support any claims by R-CALF that its members will suffer irreparable economic harm if the Final Rule is implemented.

A. The U.S. Beef And Cattle Markets Are Not In The Weakened Condition Portrayed By R-CALF And Will Not Be Irreparably Harmed By Implementation Of The Final Rule

Contrary to the position taken by Dr. VanSickle, the data on farm incomes and other financial indicators of the beef cattle industry in the United States do not indicate particular weakness. *See* VanSickle Declaration at ¶8. In fact, the recent period has been one of strong improvement in the economic fortunes of the U.S. cattle industry. Data show U.S. cattle industry prices and revenue have been unusually strong for more than two years. The average price of fed cattle was $68.70 per hundredweight from 1999 through 2002, but has risen to $84.90 for the 2003 through 2004 period. Feeder cattle prices, and revenues of cow-calf producers have also been strong compared to earlier years. Total revenue for the cattle industry has been about $45.5 billion in each of 2003 and 2004 compared to an average of $39 billion for the previous four years. *See* Sumner Declaration at 3, ¶5.

Dr. VanSickle notes that USDA/APHIS's analysis supporting the Final Rule published on January 4, 2004 projects slightly lower cattle prices of one to two percent.[3] Dr. VanSickle further notes that benefits from lower prices accrue to the aggregate of those who purchase cattle and beef as they enter the slaughter and marketing chain (*i.e.*, meat packers, wholesalers, retailers as well as final consumers). *See* VanSickle Declaration at ¶9. However, there is no data in the USDA/APHIS analysis that addresses the distribution benefits among participants in the marketing chain and the final consumer. Thus, Dr. VanSickle's assertion that there would be

[3] The lower U.S. cattle prices, off historic highs, are attributed to additional imports from Canada. As explained in a study conducted by Ted Schroeder of the University of Kansas, which will be discussed in greater detail below, the USDA/APHIS import projections are very likely too high and therefore the price reductions and implied revenue losses to the industry are also too high.

little benefit to individual U.S. consumers is wholly without basis. *See* Sumner Declaration at 3-4, ¶6.

Dr. VanSickle's calculation and discussion of the "multiplier effects" that may occur from implementation of the Final Rule is completely inaccurate and must be disregarded altogether. His discussion fails to acknowledge and account for multiplier effects that result on the benefit side. *See* VanSickle Declaration at ¶10. Dr. VanSickle's statements are based on his fundamental misunderstanding and misinterpretation of the IMPLAN multiplier analysis and results. Under Dr. VanSickle's interpretation, one gets the absurd conclusion that any import of any product would reduce national economic activity. The problem is that Dr. VanSickle fails to recognize that imports, which provide savings to those in the marketing chain and to final consumers, also create multiplier effects. The savings by consumers on their cattle or beef purchases do not simply vanish. They too are invested or spent on goods and services and "multiplier effects" accrue to the spending and investment associated with these funds. Dr. VanSickle erroneously considers only half of the multipliers. Since, as USDA/APHIS has shown, there is a net gain to trade in the present case, a full analysis of multipliers would show an even greater benefit to removing the trade barrier than is found in USDA/APHIS's analysis of the net positive impacts. *See* Sumner Declaration at 4, ¶7.

B. U.S. Producers Will Not Be Faced With A "Flood Of Cheap Cattle And Meat" From Canada.

There will not be a flood of cheap cattle entering the United States upon the reopening of the U.S./Canadian border. Current fed and feeder cattle numbers in Canada, as well as the continued expansion of Canadian slaughter capacity, evidence that USDA/APHIS likely overestimated the amount of Canadian cattle that will be entering the U.S. market, but in any case the restoration of normal trade patterns is hardly evidence of irreparable injury.

In this regard, a number of projections regarding the volume of cattle likely to be imported into the United States from Canada after March 7 have been made by various organizations, including the USDA/APHIS. CanFax, the market analysis division of the CCA, estimates that the Canadian cattle exports in 2005 will be between 600,000 to 700,000 head of slaughter cattle and 200,000 to 300,000 head of feeder cattle. USDA/APHIS economic analysis of the final rule reopening the border estimates 2005 U.S. imports from Canada of 1.5 million head of fed cattle and 515,400 head of feeder cattle. Estimates presented by the Livestock Marketing Information Center ("LMIC")and CattleFax tend to fall in between CanFax and USDA/APHIS, but are markedly lower than the USDA/APHIS projections.[4] *See* Declaration of Dennis Laycraft at 2, ¶4, appended hereto as Attachment 2.

Due to the importance of developing a comprehensive understanding of the expected cattle movement from Canada to the United States, the CCA requested Ted Schroeder, Ph.D., an agricultural economist at Kansas State University, to analyze this issue and prepare an updated and thorough assessment of likely cattle import volumes. Based on a market equilibrium analysis, Dr. Schroeder estimates that the probable volume of Canadian fed and feeder cattle likely to enter the U.S. upon the border reopening is 857,000 head in 2005, a figure consistent with estimates by CattleFax and CanFax. *See* T. Schroeder and B. Coffey, "Projecting 2005 Canadian Cattle Exports to the U.S." (the "Schroeder Report") at 10. A copy of the Schroeder Report is attached as Exhibit A to the Laycraft Declaration.

Dr. Schroeder's explanation of USDA's methodology and why that methodology has likely overstated probable trade flows is enlightening. First, Dr. Schroeder found that USDA/APHIS based its assumptions regarding "normal" exports of fed and feeder cattle to the

[4] LMIC projects 980,000 head of fed cattle and 370,000 head of feeder cattle; CattleFax projects 500,000

U.S. based on export numbers from 2001 and 2002. Of significance is the fact that 2002 was not a normal year, as Canada exported record numbers of cattle to the U.S. in response to severe drought conditions that caused high grain prices and poor pasture conditions in Canada. The exact opposite conditions—plentiful forage and low priced feed grain—exist today. In addition, Dr. Schroeder found that USDA/APHIS's estimates of Canadian backlogs of fed cattle and displaced fed cattle appear to be higher than the actual number. Moreover, he found that USDA's assumption of a constant level of Canadian slaughter capacity through 2005 was particularly problematic as, in fact, Canada has expanded slaughter capacity and plans for even further increases through 2005. Finally, USDA's projections predate the decision to delay reopening the border to Canadian beef from cattle over thirty months of age and would logically be adjusted downward to account for this policy revision. *See* Schroeder Report at 13-14.

A review of the structural changes to the Canadian cattle and beef markets explains much of the overstatement of anticipated cattle volumes. In response to the U.S. border closing in May 2003, the Canadian cattle industry has substantially increased its slaughter capacity. Canada is currently processing approximately 78,000 head of cattle per week (combining Federal and provincial numbers) -- an increase of more than 14.7 percent from pre-BSE levels. By the end of 2005, total slaughter capacity is expected to be 95,000 head per week. *See* Laycraft Declaration at 4, ¶7.

Other current statistics further dispel the notion that there are vast numbers of cattle waiting to cross the border on March 7. For example, while the number of cattle on feed in Canada is up slightly from January 2004, January 2005 cattle on feed numbers are down 15 percent from their four-year average prior to May 2003 (2000-2003). In this regard, a delegation

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head of fed cattle and 300,000 head of feeder cattle.

from the National Cattlemen's Beef Association ("NCBA") visited Canada in January of this year to, among other things, assess the Canadian cattle supply situation. They found it to be current. CCA participated in this visit and facilitated tours of Canadian feedlots and aerial inspection of Alberta's "feedlot alley." *See* Laycraft Declaration at 4, ¶8; NCBA Final Report at 9. A copy of the NCBA's report on that visit is attached as Exhibit B to the Laycraft Declaration.

In terms of potential impact, it is important to recognize that U.S. cattle numbers are much larger than cattle numbers in Canada. In 2004, fed steer and heifer cattle slaughter in the U.S. was 26.5 million head compared to Canadian fed slaughter of 3.39 million head. Overall Canadian delayed placements/cattle marketings for 2004, even without live cattle exports to the U.S., are only about one week's U.S. slaughter. *See* Laycraft Declaration at 4, ¶9.

C. R-CALF's Conclusions Regarding The Impact Of Canadian Imports On U.S. Beef Exports Are Inaccurate And Misleading

Through Dr. VanSickle, R-CALF draws speculative conclusions regarding domestic and foreign consumer confidence in the U.S. beef supply that are without basis in fact or analysis. *See* VanSickle Declaration at ¶¶11 and 12. The data available to quantify the level and impact of consumer confidence shows very small consumer reactions in either Canada or the United States to the isolated BSE cases experienced here. Dr. VanSickle's comparison of 2003 and 2004 beef export levels (asserting that beef exports declined by 82.4 percent between 2003 and 2004) tells us nothing about domestic or foreign consumer reactions to imports of Canadian cattle and beef. Those export declines were due to the response of foreign governments to a BSE discovery in the United States, not consumer reaction. U.S. beef prices were very high in 2003 for several reasons, including the U.S. restrictions on most imports from Canada that caused short supply in the U.S. during a period of particularly strong demand in the domestic market. The price decline

in 2004 was driven largely by the fact that 2003 values were unusually high. Moreover, the declines likely would have occurred in any event due to some moderation in the unusual demand conditions in the U.S. market in response to the popularity of "high-protein" diets. Dr. VanSickle's calculation of price impacts in 2004 of the lost export markets for U.S. beef relies on the untenable assumption that no other factors affected beef demand in 2004 other than the reduction in exports. These incomplete calculations, therefore unreasonably exaggerate the impact of lost exports on the decline in the U.S. beef market from 2003 to 2004. *See* Sumner Declaration at 4-5, ¶8.

Naturally, the biggest short-term effect on demand for U.S. beef in 2004 was the response by governments, primarily in Asia, to the discovery of BSE in a cow slaughtered in the United States. Negotiations have been underway to reverse the response of Asian governments to this event. There are encouraging signs, but reopening of the markets in Japan and Korea has not yet occurred. While there may be no question that the shortfall in exports reduced the price of cattle in the United States, Dr. VanSickle's jump to the conclusion that reopening the Canadian border will further harm the U.S. export market is unjustified. *See* Sumner Declaration at 5-6, ¶9. There is no evidence to support this conclusion and evidence from U.S. government negotiators to suggest the causation goes in the other direction.

The closure of certain export markets to U.S. beef was in response to a finding of BSE in Washington State in December 2003. Although some markets have since reopened to U.S. exports (and have not imposed further restrictions since the two more recent BSE cases discovered in Canada), certain markets, such as Japan and Korea remain closed to U.S. beef exports. There is no evidence to support the conclusion that reopening the U.S. border to Canadian beef will have any further negative impact on U.S. export markets. If markets in Asia

are reopened, it will be with the expectation that a low level of BSE may continue to exist in both Canada and the U.S and the knowledge that resumption of U.S. trade with Canada will not alter this prevalence. With this expectation, Asian markets would only open once confidence has been established in U.S. practices to mitigate risk of BSE through SRM removal and age verification of animals regardless of whether those animals are born in the U.S., Canada, or elsewhere, thus indicating that reducing trade barriers with Canada will not cause losses in exports from the United States. There has been no evidence provided by Dr. VanSickle that the pendency of normalization of beef and cattle trade between the U.S. and Canada has had any impact at all on the continued restrictions placed on U.S. beef exports by countries such as Japan. *See* Sumner Declaration at 6, ¶10.

Dr. VanSickle's musings regarding the potential reactions of U.S. trading partners to a reopening of the Canadian border, or even to additional BSE cases, have no basis in fact. In fact there is hard evidence to the contrary, as some export markets have reopened to Canada, but not to the United States. For example, on November 30, 2004 Hong Kong's Food and Environmental Hygiene Department announced that it would resume imports of beef from Canada, while Hong Kong remains closed to the U.S. http://www.cbef.com/PDF/NewsRelease-HongKongOpens_30-11-04.pdf. Indeed, it is most likely that USDA's view that Japan and other trading partners consider the U.S. and Canadian beef and cattle markets as integrated and will recommence trade with both at the same time, is correct. In this context, it is worth noting that USDA's position is consistent with the international view that Canada and the U.S. have the same BSE risk. The European Union's BSE risk rating tool, the Geographic Risk Assessment (GBR), placed the U.S. and Canada in the same geographical risk assessment, both before and after the detection of BSE, and the International Review Team charged with assessing the U.S.

response to the BSE case discovered in Washington State in December 2003 stated that "the first case of BSE in the U.S. cannot be considered in isolation from the whole cattle production system in North America" or "dismissed by considering it an 'imported case'." *Report on the Measures Relating to Bovine Spongiform Encephalopathy (BSE) in the United States*, February 2, 2004, at 4 (www.aphis.usda.gov/1pa/issues/bse/US_BSE_Report.pdf). Sumner Declaration at 6-7, ¶11. This is also consistent with the reality of the historic trade flows in both cattle and feed between the United States and Canada and the symmetry with which both countries have adopted BSE firewalls. *See* Sumner Declaration at 6-7, ¶11.

Since 1988, prior to the first discovery of a BSE case in Canada, the Canadian government and cattle industry have been erecting safeguards to ensure the health of Canadian cattle and the safety of Canadian beef. In this regard the United States and Canada have moved in virtual lockstep and have comparable safeguards and surveillance systems in place. Laycraft Declaration at 5, ¶10. Attached as Exhibit C to the Laycraft Declaration is a side-by-side comparison of the safeguard measures implemented by the U.S. and Canada.

The CCA has been actively involved in efforts to demonstrate to U.S. interests the commitment of the Canadian cattle industry to animal health, consumer safety and normalized trade between Canada and the United States. In their January visit to Canada, the NCBA delegation evaluated the effectiveness of Canada's implementation of the ruminant-to-ruminant feed ban and BSE detection and surveillance programs. As detailed in the final report attached to the Laycraft Declaration as Exhibit B, the NCBA delegation found that the Canadian industry appears to be in compliance with its feed ban and that Canadian BSE surveillance programs appear to be on track to meet established targets and are largely similar to U.S. surveillance protocols. Laycraft Declaration at 5, ¶11; NCBA Final Report at 12, 13.

D. Reopening The Border Will Not Negatively Impact The U.S. Domestic Consumer Market

R-CALF mischaracterizes consumer reaction to past findings of BSE cases in both Canada and the United States. *See* VanSickle Declaration at ¶¶15 and 16. The evidence from both the United States and Canada is that the BSE findings to date have caused little or no significant negative response among domestic consumers. Beef consumption clearly rose in both countries and the price declines experienced in the United States are consistent with an export market loss and little if any domestic consumer reaction. *See* Sumner Declaration at 7, ¶12.

With regard to consumer reaction to the discovery of BSE in certain Canadian animals and overall beef consumption levels, consumer support of the beef and cattle industry has remained strong. As have their U.S. counterparts, the Canadian government, along with the CCA and other Canadian cattle and beef-related organizations, has worked hard to educate consumers about BSE and the safeguards in place to ensure herd health and food safety. As a result, consumption of beef in Canada rose five percent in 2003, even after the May 2003 discovery of BSE in a cow in Alberta. Laycraft Declaration at 5, ¶12.

Consumer confidence in Canada has also remained high. Notably the third and fourth cases of BSE in North America have not significantly impacted general measures of consumer confidence in beef products. In the most recent IPSOS Reid survey, 83 percent of Canadians agree that the food industry in Canada is well regulated for the protection of human health. Consumer reaction was minimal, as the Canadian Council of Grocery Distributors reported no change to customer inquiries at the meat case or impact on beef sales. The Beef Information Centre received only one consumer email and no 1-888 line calls. Laycraft Declaration at 6, ¶13.

Dr. VanSickle's comments about the decline in cattle prices in Canada are inapposite to any conclusions about consumer reactions. That price decline, as in the case of the subsequent

price decline in the United States, was due to responses by foreign governments, not to any response by consumers. In the United States, as noted above, the domestic beef market has been strong overall since the December 2003 discovery of a cow with BSE in Washington State, and rebounded quickly following some initial short-term declines. *See* Sumner Declaration at 7, ¶12.

Dr. VanSickle's reliance on data from Poland is misplaced as it reflects a situation much different in many ways from the North American experience. *See* VanSickle Declaration at ¶¶15 and 16. This discussion of the Polish experience is not relevant to the experience or expectations of the North American beef and cattle market, particularly when first-hand experience in these markets is available. *See* Sumner Declaration at 8, ¶12.

Dr. VanSickle's introduction of the issue of country-of-origin labeling does not support a showing of harm to the domestic industry. *See* VanSickle Declaration at ¶18. Dr. VanSickle offers no support for his assertions about the labeling of Canadian origin-beef at points of sale to end-users. Again, experience proves the deficiencies in Dr. VanSickle's position. Even during the restriction on cattle imports, Canadian boneless meat without any country-of-origin labeling has been imported into the U.S. without incident or negative consumer effects. Canadian boneless beef exports to the U.S. resumed in early September 2003 and by October 2003 had reached historic volume levels. There was no negative U.S. consumer reaction to the resumption of trade with Canada at that time nor has there been since. U.S. demand for beef continued to increase throughout 2003. Consumer demand for beef showed continued strength in the first quarter of 2004, with preliminary data showing the Beef Demand Index increased by 10.4 percent compared to the first quarter of 2003. "Beef Demand Exhibits Continuing Strength in First Quarter of 2004". NCBA, 20 May 2004.

www.beefusa.org/dsp_content/cfm?locationID=1474@contentTypeID=2&contentI=2648. *See also* Sumner Declaration at 8, ¶13.

IV. CONCLUSION

In the penultimate paragraph of its "Report on Measures Relating to Bovine Spongiform Encephalopathy (BSE) in the United States," www.aphis.usda.gov/1pa/issues/bse/US_BSE_Report.pdf., February 2, 2004, at 10, the International Review Panel recommended "that the U.S. should demonstrate leadership in trade matters by adopting import/export policy in accordance with international standards, and thus encourage the discontinuation of international trade barriers when countries identify their first case of BSE." USDA/APHIS has demonstrated precisely this type of leadership in promulgating the rule that is before this Court. In so doing, it is creating the template necessary to open export markets based on sound science, rather than to see those markets remain closed based on irrational fear and economic self-interest. The United States and Canada have been working together to successfully construct a North American system governed by science so that in the event that any further BSE cases are discovered in any part of North America, decision-making can be based on science, not baseless speculation. Both the United States and Canada have been working with Japan and other countries that impose trade restrictions, masquerading as safety standards, well beyond anything recommended by the OIE or having a basis in sound science, to achieve a rational and sustainable trade policy for cattle and beef. R-CALF's efforts to undermine this process with one speculative leap after another is extraordinarily short sighted. R-CALF has not met the burdens required for imposition of a preliminary injunction in this matter, and therefore its motion should be denied.

DATED this _____ day of _____, 2005.

Respectfully submitted,

_____
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Roberta Kienast Daghir*
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Washington, DC 20037
(202) 772-5837

Counsel for the Canadian Cattlemen's Association

*Motions for admission *pro hac vice* are being submitted.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

RANCHERS CATTLEMEN ACTION LEGAL FUND UNITED STOCKGROWERS OF AMERICA, Plaintiff, v. UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, et al., Defendants	Cause No. CV-05-06-BLG-RFC

DECLARATION OF DANIEL A. SUMNER, Ph.D.

I, Daniel A. Sumner, do hereby depose under oath as follows:

1. I am over the age of 18, have personal knowledge of the facts cited herein, and am competent to testify.

2. I am an agricultural economist. Among other issues involving agricultural economics, I have conducted research and authored publications concerning trade in U.S. and international beef and dairy markets. Since 1997, I have been the Director of the University of California Agricultural Issues Center, and since 1993, I have been the Frank H. Buck, Jr. Professor in the Department of Agricultural and Resource Economics at the University of California, Davis. From 1990 to 1993, I worked at the U.S. Department of Agriculture, first as a Deputy Assistant Secretary for Economics and then as an Assistant Secretary for Economics. From 1987 to 1989, I served as a Senior Staff

Economist for the President's Council of Economic Advisors. A copy of my curriculum vitae is attached hereto as Exhibit A.

3. I have reviewed the declaration by John J. VanSickle, Ph.D., submitted in support of the motion for preliminary injunction filed in this matter. While Dr. VanSickle's declaration expresses his opinions with respect to a number of issues raised by R-CALF in this litigation, many of these opinions lack empirical support, are premised on mistaken use of economic models and/or misinterpretation of modeling approaches, or are merely speculative. By way of example only and not by limitation, several specific problems with Dr. VanSickle's claims are noted below.

4. Dr. VanSickle contends that adverse economic impacts on R-CALF members from implementation of the Final Rule published on January 4, 2005 ("Final Rule") can be anticipated as a result of (a) an "increased supply of cattle and beef entering the U.S. market"; (b) "continued restrictions on U.S. exports because of the higher risk of BSE contamination in the Canadian-origin beef that will be co-mingled with domestic beef"; and (c) "reduced domestic beef consumption because of heightened BSE fears resulting from Canadian imports." VanSickle Declaration at Paragraph 7. These predictions by Dr. VanSickle are either purely speculative and unsupported by data or analysis or are simply inaccurate. Therefore, the predictions of Dr. VanSickle do not support any claims by R-CALF that its members will suffer irreparable economic harm if the Final Rule is implemented. I will address some of Dr. VanSickle's conclusions about the economic situation and outlook of the U.S. cattle industry and the potential reaction of domestic consumers and foreign trade partners to implementation of the Final Rule. I understand that Dr. VanSickle's conclusions concerning the increased supply of

Canadian cattle and beef are the subject of a study by Dr. Ted Schroeder, Ph.D., an agricultural economist from Kansas State University, which is being provided to the Court as Exhibit A to the Declaration of Dennis Laycraft (Attachment 2).

5. Contrary to the position taken by Dr. VanSickle, the data on revenues and other financial indicators of the beef cattle industry in the United States do not indicate particular weakness. *See* VanSickle Declaration at Paragraph 8. While it is always true that agricultural industries have claims to difficult economic circumstances, the recent period has been one of strong improvement in the economic fortunes of the U.S. cattle industry. Data show U.S. cattle industry prices and revenue have been unusually strong for more than two years. The average price of fed cattle was $68.70 per hundredweight from 1999 through 2002, but has risen to $84.90 for the 2003 through 2004 period. Feeder cattle prices, and revenues of cow-calf producers have also been strong compared to earlier years. Total revenue for the cattle industry has been about $45.5 billion in each of 2003 and 2004 compared to an average of $39 billion for the previous four years.

6. Dr. VanSickle notes that analysis by USDA\APHIS supporting the Final Rule published on January 4, 2004 projects slightly lower U.S. cattle prices of one to two percent. (The lower U.S. cattle prices, off historic highs, are attributed to additional imports from Canada. As Professor Schroeder has shown, the USDA import projections are very likely too high and therefore the price reductions and implied revenue losses to the industry are also too high.) Dr. VanSickle further notes that benefits from lower prices accrue to the aggregate of those who purchase cattle and beef as they enter the slaughter and marketing chain (*i.e.*, meat packers, wholesalers, retailers as well as final consumers). *See* VanSickle Declaration at Paragraph 9. However, there is no data in the

USDA\APHIS analysis that addresses the distribution of benefits among participants in the marketing chain and the final consumer. Thus, Dr. VanSickle's assertion that there would be little benefit to individual U.S. consumers is wholly without basis.

7. Dr. VanSickle's calculation and discussion of the "multiplier effects" that may occur from implementation of the Final Rule is completely inaccurate and must be disregarded altogether. His discussion fails to acknowledge and account for multiplier effects that result on the benefit side. *See* VanSickle Declaration at Paragraph 10. Dr. VanSickle's statements are based on his fundamental misunderstanding and misinterpretation of the multiplier analysis and results using the IMPLAN package. Under Dr. VanSickle's interpretation, we get the absurd conclusion that any import of any product would reduce national economic activity. The problem is that Dr. VanSickle fails to recognize that imports, which provide savings to those in the marketing chain and to final consumers, also create multiplier effects. The savings of marketers and final consumers on their cattle or beef purchases do not simply vanish. They too are invested or spent on goods and services and "multiplier effects" accrue to the spending and investment associated with these funds. Dr. VanSickle erroneously considers only half of the multipliers. Since, as USDA/APHIS has shown, there is a net gain to trade in the present case, a full analysis of multipliers would show an even greater benefit to removing the trade barrier than is found in the analysis of the net positive impacts presented by USDA/APHIS.

8. Dr. VanSickle draws speculative conclusions regarding domestic and foreign consumer confidence in the U.S. beef supply that are without basis in fact or analysis. *See* VanSickle Declaration at Paragraphs 11 and 12. There is little hard data

available to quantify the level and impact of consumer confidence and what data there is shows very small consumer reactions in either Canada or the United States to the isolated BSE cases experienced in North America. Dr. VanSickle misinterprets data or extrapolates distant and irrelevant examples. Dr. VanSickle's comparison of 2003 and 2004 U.S. beef export levels (asserting that U.S. beef exports declined by 82.4 percent between 2003 and 2004) tells us nothing about domestic or foreign consumer reactions to imports into the United States of Canadian cattle and beef. Those export declines were due to the response of foreign governments to a BSE discovery in the United States, not consumer reaction. Dr. VanSickle also misinterprets comparisons of prices between 2003 and 2004. U.S. beef prices were very high in 2003 for several reasons, including the U.S. restrictions on most imports from Canada that caused short supply in the U.S. during a period of particularly strong demand in the domestic market. The price decline in 2004 was driven in part by the fact that 2003 values were unusually high. Moreover, declines likely would have occurred in any event due to some moderation in the unusual demand conditions in the U.S. market in response to the popularity of "high-protein" diets. Dr. VanSickle's calculation of price impacts in 2004 of the lost export markets for U.S. beef relies on the untenable assumption that no other factors affected beef demand in 2004 other than the reduction in exports. These incomplete calculations, therefore unreasonably exaggerate the impact of lost exports on the decline in the U.S. beef market from 2003 to 2004.

9. Naturally, the biggest short-term effect on demand for U.S. beef in 2004 was the response by governments, primarily in Asia, to the discovery of BSE in a cow slaughtered in the United States. Negotiations have been underway to reverse the

response of Asian governments to this event. There are encouraging signs, but reopening of the markets in Japan and Korea has not yet occurred. While there may be no question that the shortfall in exports reduced the price of cattle in the United States, Dr. VanSickle's jump to the conclusion that reopening the Canadian border will further harm the U.S. export market is unjustified.

10. The closure of certain export markets to U.S. beef was in response to a finding of BSE in Washington State in December 2003. Although some markets have since reopened to U.S. exports (and have not imposed further restrictions since the two more recent BSE cases discovered in Canada), certain markets, such as Japan and Korea remain closed to U.S. beef exports. There is no evidence to support the conclusion that reopening the U.S. border to Canadian beef will have any further negative impact on U.S. export markets. If markets in Asia remain closed to U.S. beef, additional imports from Canada could not cause the United States to lose those markets; if markets in Asia are reopened, with knowledge that more trade with Canada is imminent, that indicates that reducing trade barriers with Canada will not cause losses in exports from the United States. There has been no evidence provided by Dr. VanSickle that the pendency of normalization of beef and cattle trade between the U.S. and Canada has had any impact at all on the continued restrictions placed on U.S. beef exports by countries such as Japan.

11. Dr. VanSickle's musings regarding the potential reactions of U.S. trading partners to a reopening of the Canadian border, or even to additional BSE cases, simply have no basis in fact. From my experience, USDA's view that Japan and other trading partners consider the U.S. and Canadian beef and cattle markets as integrated and will recommence trade with both at the same time, is far more credible. Indeed USDA's

position is consistent with that of the International Review Team charged with assessing the U.S. response to the BSE case discovered in Washington State in December 2003. The Team stated that "the first case of BSE in the U.S. cannot be considered in isolation from the whole cattle production system in North America" or "dismissed by considering it an 'imported case'." "Report on the Measures Relating to Bovine Spongiform Encephalopathy (BSE) in the United States," February 2, 2004, p.4. www.aphis.usda.gov/1pa/issues/bse/US_BSE_Report.pdf. This is also consistent with the reality of the historic trade flows in both cattle and feed between the U.S. and Canada and the symmetry with which both countries have adopted BSE firewalls. *See* Exhibit C to Declaration of Dennis Laycraft (Attachment 2).

12. Dr. VanSickle also mischaracterizes consumer reaction to past findings of BSE cases in both Canada and the United States. *See* VanSickle Declaration at Paragraphs 15 and 16. The evidence from both the United States and Canada is that the BSE findings to date have caused little or no significant negative response among domestic consumers. Beef consumption clearly rose in both countries and the price declines experienced in the United States are consistent with an export market loss, demand response to diet trends, and little if any domestic consumer reaction to BSE. This is also the finding of USDA/APHIS. Dr. VanSickle's comments about the decline in cattle prices in Canada are inapposite to any conclusions about consumer reactions. That price decline, was due to responses by foreign governments, not to response by consumers to BSE. In the United States, as noted above, the domestic beef market has been strong overall since the December 2003 discovery of a cow with BSE in Washington State, and rebounded quickly following some initial short-term declines. Dr.

VanSickle's reliance on data from Poland is misplaced as it reflects a situation much different in many obvious ways from the North American experience. *See* VanSickle Declaration at Paragraphs 15 and 16. This discussion of the Polish experience is not relevant to the experience or expectations of the North American beef and cattle market, particularly when first-hand experience in these markets is available.

13. Dr. VanSickle's introduction of the issue of country-of-origin labeling does not support a showing of harm to the domestic industry. *See* VanSickle Declaration at Paragraph 18. Dr. VanSickle offers no support for his assertions about the labeling of Canadian origin beef at points of sale to end-users. Again, experience proves the deficiencies in Dr. VanSickle's position. Since August 2003, even during the restriction on cattle imports, Canadian boneless meat without any country-of-origin labeling has been imported into the U.S. without incident or negative consumer effects.

I solemnly affirm under penalties of perjury that the contents of the foregoing Affidavit are true and correct.

_____ _____

Date Daniel A. Sumner

Subscribed to and sworn before me this ____ day of February 2005.

_____

Notary Public

My commission expires:

_____

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Education

University of Chicago, Ph.D., 1978, Economics (Labor Economics and Agricultural Economics)
University of Chicago, M. A., 1977, Economics
Michigan State University, M. A., 1973, Economics
California State Polytechnic University, San Luis Obispo, B. S., 1971, Agricultural Management

Current Positions and Professional Experience

1997-	Director, University of California Agricultural Issues Center
1993-	Frank H. Buck, Jr. Professor, Department of Agricultural and Resource Economics, University of California, Davis
1992-1993	Assistant Secretary for Economics, U.S. Department of Agriculture
1990-1992	Deputy Assistant Secretary for Economics, U.S. Department of Agriculture
1987-1991	Professor, Department of Economics and Business, North Carolina State University (on leave, September 1987- February 1989 and January 1990-December 1991)
1987-1989	Senior Staff Economist, President's Council of Economic Advisers
1986-1987	Resident Fellow, National Center for Food and Agricultural Policy, Resources for the Future, Washington, DC
1978-1987	Assistant-Associate Professor, Department of Economics and Business, North Carolina State University
1977-1978	Rockefeller Foundation Post-Doctoral Fellow, Labor and Population Group, Economics Department, Rand Corporation, Santa Monica, CA

Teaching and Graduate Student Supervision

Recent courses include micro-economic theory and agricultural policy analysis including a special course for Chinese Ph.D. students in Beijing. Previous courses include economic development and econometrics. Graduate student advising includes supervision of 3 to 5 Ph.D. students each year.

Selected Recent University Committee Service

2004	College of Agriculture and Environmental Sciences, Implementation Committee for the Center for Sustainable Agriculture
2003-05	College of Agriculture and Environmental Sciences, Committee on Outreach
2003	Ad hoc University of California, Division of Agriculture and Natural Resources committee on funding Cooperative Extension
2003	Ad hoc University of California, Division of Agriculture and Natural Resources committee on reorganization of DANR operations
2002-2003	Department Outreach Committee
2001	Department Undergraduate Program Committee
2000-2001	Program Committee, University of California Division of Natural Resources, Biennial Convention
2000	Department Faculty Search Committee
2000	Management Evaluation Committee for the UC Center for Cooperatives
1999	UC Davis Joint Personnel Committee
1998-1999	Chair, Department of Agricultural and Resource Economics Seminar Committee
1996-1999	University of California, Division of Agriculture and Natural Resources, Program Planning Advisory Committee: Chair, Program Integration and Committee of the Whole; Chair, Agriculture Subcommittee
1998	Selection Committee for Director of the UC Davis Gifford Center on Population Studies,
1998	California Dairy Research Foundation, Research Advisory Committee
1997	Provost's Globalization Commission
1995-1997	Master Advisor and Chair, Department Undergraduate Committee
1995- 1999	Executive Committee and Advisor, Graduate Group in International Agricultural Development
1994-1999	Technical Advisory Committee, California Rice Research Board
1994-1997	Standing Committee on International Programs, College of Agriculture and Environmental Sciences, Chair 1996-1997

Recent Research Grants and Contracts

2004-2005	USDA, FAS through the California Winegrape Growers Association, *Assessing the Emerging Market for U.S. Wine in China*, with Rozelle ($140,000)
2003-2004	USDA Risk Management Agency. *Risk Management Education for California*, ($498,000)
2002-2003	California Department of Water Resources. Assessing irrigation demand by California agriculture in 2030, with Howitt ($57,000)
2002-2003	FAO. Improving the FAO meta database (ABCDQ) ($7,000)

2002-2003	USDA Economic Research Service. Effects of U.S. national dairy policy ($25,000)
2002-2004	USDA National Research Initiative. Economics of efforts to eradicate FMD in the Mercosur, with Jarvis and Univ. Illinois ($160,000)
2001-2007	USDA Rural Development Administration. Creation of the Agricultural Marketing Resource Center, with Iowa State University and Kansas State University (AIC portion approximately $300,000 per year)
2001-2004	USDA Risk Management Agency. Producer input expenditure studies to support crop insurance programs, with Klonsky ($940,000)
2001-2002	Western Agricultural Health and Safety Center. Farmer and worker health economics and policy ($20,000)
2001-2003	USDA, National Research Initiative. Asian dairy trade, with Beghin and Lee ($160,000)
2000-2001	UC DANR Workgroups. Processing tomato industry on the competitive edge ($17,000)
2000-2002	Giannini Foundation. Effects of milk marketing orders, ($12,000)
1999-2001	California League of Food Processors. Effects of EU policy for processing tomatoes ($27,000)
1998-2000	USDA National Research Initiative. Climate forecasts and grain markets. ($127,000)
1997-2000	US-Israel Bi-national Agricultural Research and Development Fund. Off-farm work by farm family members, with Chalfant and Kimhi ($169,000)
1998-1999	USDA APHIS, California Department of Food and Agriculture; and UC/DANR. Implications of polices for control of exotic pests and diseases. ($130,000)
1998-1999	National Oceanographic and Atmospheric Administration. Economic implications of improved climate forecasts for agricultural markets in the Pacific Rim ($63,000)
1997-1998	USDA, National Research Initiative. Implications of elimination of Foot and Mouth Disease, with Jarvis ($71,000)
1997-1998	National Oceanographic and Atmospheric Administration. Agricultural economic implications of improved climate forecasts ($20,000)
1997-2002	California Department of Food and Agriculture. Annual grant to prepare California Agricultural Export Statistics (approximately $12,000 per year)
1996-1997	USDA Foreign Agricultural Service. Korean agricultural trade ($9,600)
1996-1997	UC Pacific Rim Program. Korean agricultural policy and trade ($25,000)
1996-1997	Giannini Foundation. Dairy policy and the 1996 Farm Bill ($11,000)
1996-1997	USDA National Research Initiative. Agriculture policy and trade in Northeast Asia for rice and horticultural products, with Carter, Winter, and Lee. ($72,000)
1996-1997	USDA Economic Research Service. California dairy policy reform. ($30,000)
1996-1997	USDA Economic Research Service. Rice policy and supply analysis. ($15,000)
1995-1996	California Rice Research Foundation. Economic value of water in Northern California agriculture, with Howitt and Lee ($19,000)
1995-1996	University of California, Vice President's Office. Rice straw burn regulations and the environment, with Howitt. ($20,000)
1995-1996	Giannini Foundation. Rice straw and the environment, with Howitt. ($15,000)

1995-1996	USAID, Small ruminant CRSP. Elimination of foot and mouth disease in Argentina and LDC beef markets, with Jarvis. ($20,000)
1995-1999	USDA, FAS. Implications for the U.S. of elimination of foot and mouth disease in Argentina, with Jarvis. ($14,000)
1996	UC Institute for Global Cooperation and Conflict. Assessment of North Korean food situation ($1,800)
1995	UC Vice President's Office. Analysis of California milk quota policy ($15,000)
1995	USA Rice Federation. Evaluation and review of GAO rice policy report. ($10,000)

Professional Memberships and Activities

American Economic Association
Econometric Society
Western Economic Association
American Agricultural Economics Association
    Professional Activities Committee, 1990, 2000
    Chair, Policy Award Committee, 2001
Western Agricultural Economics Association
    Council Member, 1996-2001
    Chair best published research award committee 2001
International Association of Agricultural Economists
Australian Agricultural Economics Society
Asian Society of Agricultural Economists
International Agricultural Trade Research Consortium
    Director, 1996-1997
    Chair, 1997-2000
Rice Technical Working Group
    Co-chair, Economics Program, 1998 Biennial Meeting

Academic Reviewer

Journal of Political Economy, California Agriculture, Journal of Law and Economics, Review of Agricultural and Resource Economics, American Journal of Agricultural Economics, USDA, National Research Initiative, National Science Foundation, Fulbright Foundation, among others

Professional Awards, Honors and Distinctions

Fulbright Senior Specialist Scholar, Australia, September 2002
USDA Agricultural Policy Advisory Committee for Trade (APAC), 2001-2003
Fellow, American Agricultural Economics Association, 1998
Award for Quality of Research Discovery, American Agricultural Economics Association, 1996
Award for Quality of Communication, American Agricultural Economics Association, 1996; Honorable Mention, 1991
Award for Outstanding Published Research in Agricultural Economics, Honorable Mention, Western Agricultural Economics Association, 1996

Award for Distinguished Policy Contribution, American Agricultural Economics Association, 1995
Tobacco Economics Award, Tobacco Merchants Association, 1993
Honored Alumnus, College of Agriculture, California State Polytechnic University, 1991
Associate Editor, *Tobacco Science*, 1989-1991
Associate Editor, *American Journal of Agricultural Economics*, 1986-1990
Member and author, Council for Agricultural Sciences and Technology Task Force on the 1985 Farm Bill

Selected Major Lectures and Keynote Addresses, 2000-2002

Hundreds of invited lectures at professional meetings and industry conferences including:

Date	**Topic**	**Lecture/conference**
2-2000	Open Markets and Global Food Security	American Association for the Advancement of Science, Washington DC
2-2000	NAFTA Agricultural Trade: Recent Data and Current Issues	UC Mexus Symposium, Mexico City
3-2000	Post Seattle Trade Climate	Agriculture and Agri-food Canada, Alberta
3-2000	The WTO and agricultural negotiations	Phillip C. Holland Lectureship, Washington State University
4-2000	GMOs and Agriculture	California State Senate
6-2000	Expanding the Benefits of Open Trade	World Processing Tomato Congress
7-2000	The Biotech/GMO Controversy: Implications for Agriculture	AgAmerica Bank Annual Meeting, Sacramento
8-2000	Food Security and Trade Policy	International Association of Agricultural Economists, Berlin
9-2000	Value of Agricultural Statistics for Food Security Policy	Food and Agriculture Organization of the United Nations, Rome
12-2000	Ex Ante Economics of Exotic Disease Policy	USDA, Washington, DC
2-2001	The Upcoming Farm Bill	California rice growers
7-2001	Trade Negotiations, SPS and Exotic Pests	Western Association of Agricultural Economics, Logan, Utah
7-2001	WTO and the Farm Bill	California Farm Bureau
9-2001	Issues in California Agriculture	Commonwealth Club of San Francisco
9-2001	Economic Issues for Federal Marketing Orders Facing Legal Challenges	United Fresh Fruit and Vegetable Association, Washington, DC
10-2001	US Farm Policy Trends and Implications	Italian Conference of Active Farmers, Lake Como, Italy
11-2001	The Role of Policy Research in Agriculture	International Food Policy Research Institute, Ad hoc Symposium, The Hague, Netherlands
1-2002	Agricultural Issues in the New Round	California Council for International Trade Congressional Forum
3-2002	US Farm Policy and WTO	Iowa State University Agricultural Forum

4-2002	US Farm Policy	Korea Rural Economic Institute, Seoul
6-2002	Farm Programs and WTO Security	Food and Agriculture Organization, Rome
6-2002	Tomato Trade and Policy	Processing Tomato World Congress, Istanbul
9-2002	WTO and the US Farm Bill, implications for negotiations and world markets	University of New England Armidale, University of Sydney, Orange, New South Wales Department of Agriculture, Federal Ministry of Agriculture, Canberra, Australia
11-2002	Food Security Policy for North Korea	Seoul National University, Korea
12-2002	Outlook for Agriculture and Raisins	Annual Grower Meeting Sun Maid Growers

National Policy Service

As Senior Staff Economist at the President's Council of Economic Advisers, I provided analysis to support the evaluation of policy options on economic issues facing the U.S. government. I helped guide the positions taken by the Council in agriculture, labor and international trade, and represented the Council in interagency staff discussions that help set government policy and provide input to Cabinet level decisions. As USDA Assistant Secretary for Economics, I had responsibility for the oversight and guidance of data collection, projections, economics research, and policy analysis for U.S. agriculture. I supervised several agencies including more than 1,000 professional economists and statisticians. I provided policy information and counsel to the Secretary and other senior government officials on a wide range of issues including food and farm programs, environmental concerns, rural development, and international trade policy and negotiations. Major policy initiatives included the FACT Act of 1990, NAFTA, and the Uruguay round of GATT negotiations.

U.S. Congress, International Trade Commission and World Trade Organization Testimony

Testimony before U.S. House of Representatives Committee on Agriculture and Subcommittee on Agricultural Appropriations; Testimony before the U.S. Senate Committee on Agriculture, Nutrition and Forestry and the Committee on Energy and Natural Resources. Topics included farm programs, economic outlook, wine industry, and irrigation policy reform among others (1990, 1991 and 1992).

Testimony before the U.S. International Trade Commission on relief from import controls, imposition of new import barriers, anti-dumping, countervailing duties, and import safeguards (1992, 1994, 1998, 1999, 2000, 2002, 2003).

Testimony before the World Trade Organization Dispute Settlement Panel on U.S. upland cotton subsidies (2003 and 2004).

Recent Outreach Publications

Daniel A. Sumner. "World trade rules affect horticultural biotechnology." *California Agriculture,* Vol. 58, No. 2, 77-78 (April-June 2004).

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

RANCHERS CATTLEMEN ACTION LEGAL FUND UNITED STOCKGROWERS OF AMERICA, Plaintiff, v. UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, et al., Defendants	Cause No. CV-05-06-BLG-RFC

DECLARATION OF DENNIS LAYCRAFT

I, Dennis Laycraft, do hereby depose under oath as follows:

1. I am over the age of 18, have personal knowledge of the facts cited herein, and am competent to testify.

2. I am the Executive Vice President of the Canadian Cattlemen's Association ("CCA") and have held that position since 1992. In my capacity as Executive Vice President, I am responsible for the day to day policy and administrative functions of the Association.

3. The CCA is a national organization representing the interests of Canada's more than 90,000 beef producers. The CCA has been actively involved in the development and implementation of measures in Canada to ensure the health of Canadian

cattle and the high quality and safety of the beef products derived from Canadian cattle. The CCA has submitted comments at all stages of the development of the Final Rule issued by the United States Department of Agriculture/Animal and Plant Health and Safety Administration on January 4, 2005 concerning the establishment of Bovine Spongiform Encephalopathy ("BSE") "minimal risk regions" and the designation of Canada as such a region. While the CCA is an advocate for the normalization of cattle and beef trade between the United States and Canada, it is also an advocate for the implementation of sound and science-based policies to ensure the health of consumers and to encourage uniform standards of international trade that appropriately address the manageable risks presented by BSE.

4. A number of estimates regarding the volume of cattle likely to be imported into the United States from Canada after March 7 have been made by a number of organizations, including the USDA. CanFax, the market analysis division of the CCA, estimates that the Canadian cattle exports in 2005 will be between 600,000 and 700,000 head of slaughter cattle and 200,000 and 300,000 head of feeder cattle. The USDA/APHIS economic analysis of the final rule reopening the border estimates 2005 U.S. imports from Canada of 1.5 million head of fed cattle and 515,400 head of feeder cattle. Estimates prepared by the Livestock Marketing Information Center ("LMIC")and CattleFax tend to fall in between CanFax and USDA/APHIS, but are markedly lower than the USDA/APHIS projections.[1]

[1] LMIC projects 980,000 head of fed cattle and 370,000 head of feeder cattle; CattleFax projects 500,000 head of fed cattle and 300,000 head of feeder cattle.

5. Due to the importance of developing a comprehensive understanding of the expected cattle movement from Canada to the United States, the CCA requested Ted Schroeder, Ph.D., an agricultural economist at Kansas State University, to analyze this issue and prepare an updated and thorough assessment of likely cattle import volumes. Based on a market equilibrium analysis, Dr. Schroeder estimates that the probable volume of Canadian fed and feeder cattle to enter the U.S. upon the border reopening will be approximately 857,000 head in 2005, a figure consistent with estimates by CattleFax and CanFax. A copy of Dr. Schroeder's report is attached as Exhibit A.

6. Dr. Schroeder's explanation of USDA's methodology and why that methodology has likely overstated probable trade flows is enlightening. First, Dr. Schroeder found that USDA based its assumptions regarding "normal" exports of fed and feeder cattle to the U.S. on export numbers from 2001 and 2002. Of significance is the fact that 2002 was not a normal year, as Canada exported record numbers of cattle to the U.S. in response to severe drought conditions that caused high grain prices and poor pasture conditions in Canada. The exact opposition conditions – plentiful forage and low priced feed grain – exist today. In addition, Dr. Schroeder found that USDA's estimates of Canadian backlogs of fed cattle and displaced fed cattle appear to be higher than the actual number. Moreover he found that USDA's assumption of a constant level of Canadian slaughter capacity through 2005 was particularly problematic as, in fact, Canada has expanded slaughter capacity and plans for even further increases through 2005. Finally, USDA's projections predate the decision to delay reopening the border to Canadian beef from cattle over thirty months of age and would logically be adjusted downward to account for this policy revision.

7. A review of the structural changes to the Canadian cattle and beef markets explains much of the overstatement of anticipated cattle volumes. In response to the U.S. border closing in May 2003, the Canadian cattle industry has substantially increased its slaughter capacity. Canada is currently processing approximately 78,000 head of cattle per week (combining Federal and provincial numbers) – an increase of 14.7 percent from pre-BSE levels. By the end of 2005, total slaughter capacity is expected to be 95,000 head per week.

8. Other current statistics dispel the notion that there are vast numbers of cattle waiting to cross the border on March 7. For example, while the number of cattle on feed in Canada is up slightly from January 2004, January 2005 cattle on feed numbers are down 15 percent from their four-year average prior to May 2003 (2000-2003). In this regard, a delegation from the National Cattlemen's Beef Association visited Canada in January of this year, to, among other things, assess the Canadian cattle supply situation. They found it to be current. CCA participated in this visit and facilitated tours of Canadian feedlots and aerial inspection of Alberta's "feedlot alley." A copy of the NCBA's final report on that visit is attached as Exhibit B.

9. In terms of potential impact, it is important to recognize that U.S. cattle numbers are much larger than cattle numbers in Canada. In 2004, fed steer and heifer cattle slaughter in the U.S. was 26.5 million head compared to Canadian fed slaughter of 3.39 million head. Overall Canadian delayed placements/cattle marketings for 2004, even without live cattle exports to the U.S., are only about one week's U.S. slaughter.

10. Since 1988, prior to the first discovery of a BSE case in Canada, the Canadian government and cattle industry have been erecting safeguards to ensure the health of Canadian cattle and the safety of Canadian beef. In this regard the U.S. and Canada have moved in virtual lockstep and have comparable safeguards and surveillance systems in place. Attached as Exhibit C is a side-by-side comparison of the safeguard measures implemented by the U.S. and Canada.

11. The CCA has been actively involved in efforts to demonstrate to U.S. interests the commitment of the Canadian cattle industry to animal health, consumer safety and normalized trade between our two countries. In their January visit to Canada, the NCBA delegation evaluated the effectiveness of Canada's implementation of the ruminant-to-ruminant feed ban and BSE detection and surveillance programs. As detailed in the final report attached as Exhibit B, the NCBA delegation found that the Canadian industry appears to be in compliance with its feed ban and that Canadian BSE surveillance programs appear to be on track to meet established targets and are largely similar to U.S. surveillance protocols.

12. With regard to consumer reaction to the discovery of BSE in certain Canadian animals and overall beef consumption levels, consumer support of the beef and cattle industry has remained strong. As have their U.S. counterparts, the Canadian government, along with the CCA and other Canadian cattle and beef-related organizations, has worked hard to educate consumers about BSE and the safeguards in place to ensure herd health and food safety. As a result, consumption of beef in Canada rose 5 percent in 2003, even after the May 2003 discovery of BSE in a cow in Alberta.

13. Consumer confidence in Canada has also remained high. Notably the third and fourth cases of BSE in North America have not significantly impacted general measures of consumer confidence in beef products. In the most recent IPSOS Reid survey, 83% of Canadians agree that the food industry in Canada is well regulated for the protection of human health. Consumer reaction was minimal, as the Canadian Council of Grocery Distributors reported no change to customer inquiries at the meat case or impact on beef sales. The Beef Information Centre received only one consumer email and no 1-888 line calls.

I solemnly affirm under penalties of perjury that the contents of the foregoing Declaration are true and correct.

_____ _____

Date Dennis Laycraft

Subscribed to and sworn before me this ____ day of February 2005.

_____

Notary Public

My commission expires:

_____

Projecting 2005 Canadian Cattle Exports to the US

Prepared by

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February 20, 2005

Background

Following discovery of a cow infected with Bovine Spongiform Encephalopathy (BSE) in Alberta Canada in May 2003, the US restricted imports of cattle and beef from Canada.[1] In late August 2003, the border restriction was modified and the US began allowing boneless beef from bovines less than 30 months of age to be imported from Canada. On January 4, 2005 the Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture (USDA) published a final rule that would permit imports of certain Canadian live cattle into the US beginning on March 7, 2005. That rule provides that such cattle must be less than 30 months of age sent directly to slaughter or, if destined for additional feeding, sent in sealed trucks directly to the terminal feedlot that finishes and markets the cattle for slaughter at less than 30 months of age. As published, the rule also allowed for imports of boneless beef from Canadian cattle older than 30 months of age. However, US Secretary of Agriculture Mike Johanns recently announced an indefinite delay of imports of Canadian beef from animals over 30 months of age.[2] Thus, the current policy allows for imports from Canada only of cattle that are under 30 months of age and beef from animals of the same age category.

Concerns have been raised by cattle producers in the US regarding the potential number of Canadian cattle that might be exported to the US following enactment of the March 2005 rule. US producers are uneasy about the impact increased imports could have on local fed cattle prices. This concern is based on the fear that there are large numbers of backlogged Canadian cattle that are waiting to flood the market when the US border reopens, and thereby causing US fed cattle prices to decline substantially.

Estimates of the potential number of cattle that could be destined for the US market when the border reopens have a wide range (Table 1). For example, CanFax estimates Canadian cattle available for export in 2005 to be 600,000 to 700,000 head of slaughter cattle and 200,000 to 300,000 head of feeder cattle.[3] USDA-APHIS economic analysis of the final rule estimates 2005 US imports from Canada of 1.5 million head of fed cattle and 515,400 head of feeder cattle.[4] Estimates presented by the Livestock Marketing Information Center (LMIC)[5] and CattleFax[6] tend to be between those of CanFax and USDA-APHIS. Particularly interesting about the ranges of estimates is that there is nearly a perfect rank order of those that estimate the largest Canadian fed cattle exports to US and those that estimate the largest feeder cattle exports. Presumably Canadian fed

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[1] A few cattle, mostly of Hawaiian origin, entered the mainland US from Canada after being shipped to Canadian ports. Cattle were allowed to be transported through Canada en route to the US as long as they were in Canada for less than 60 days.

[2] USDA *Statement by Agriculture Secretary Mike Johanns.* Release No. 0047.05, February 9, 2005.

[3] CanFax estimates collected from several sources including *CanFax Weekly Summary* January 14, 2005 and slide presentation to NCBA Delegation, January 18, 2005.

[4] U.S. Department of Agriculture, Animal and Plant Health Inspection Service. *Economic Analysis of Final Rule: Bovine Spongiform Encephalopathy: Minimal Risk Regions and Importation of Commodities (APHIS Docked No. 03-080-3), December 20, 2004.*

[5] Livestock Marketing Information Center e-mail from Director Jim Robb to members dated February 10, 2005.

[6] Cattle-Fax, *Canadian and U.S. Cattle and Beef Situation,* November 2004.

and feeder cattle would be strong substitutes for each other leading one to presume an increase in one would lead to a comparable decrease in the other. This suggests the different sources of estimates are interpreting the data quite differently and/or using different assumptions in their analyses. Such disparity among estimates of probable Canadian cattle exports to the US raises questions about why there is such discrepancy. In short, who is right? The purpose of this report is to project probable import levels of Canadian cattle upon reopening of the US border to cattle under 30 months of age on March 7, 2005. In particular, this report:

1. Describes the interrelationship between boxed beef and cattle markets
2. Summarizes recent Canadian cattle inventory and cattle on feed numbers
3. Estimates the number of cattle likely to be exported from Canada to the US to get the markets back to equilibrium
4. Evaluates the USDA-APHIS Canadian cattle export estimates

Table 1. Summary of Projections of Canadian Fed Cattle and Feeder Cattle Exports to the US in 2005

Source	Fed Cattle (head)	Feeder Cattle (head)	Date Projection Made
USDA – APHIS	1,506,900	515,400	December 20, 2004
LMIC	980,000	370,000	February 10, 2005
Cattle Fax	500,000	300,000	November 2004
CanFax	650,000[1]	250,000[2]	January 2005
Average	909,225	358,850	

[1] Midpoint of range of 600,000-700,000 head
[2] Midpoint of range of 200,000-300,000 head

Interrelated Markets

Conceptually, fundamentals of four different but closely related markets together with trade policy restrictions will ultimately determine in what quantity and form Canadian cattle and beef exports enter the US. These four markets are those for boxed beef, fed cattle, feeder cattle, and cull cows. Canadian exports of boxed beef to the US are nearly perfect substitutes for exports of fed cattle. The form in which imports occur, live or boxed, is determined largely by slaughter capacity and slaughter cost in the two countries. Currently many US beef packing firms are operating well below capacity. Therefore cattle slaughter capacity is not a binding constraint in the US. However, it is considerably cheaper to transport beef than it is to transport live animals, so Canadian cattle slaughter capacity will be expected to be heavily utilized before large amounts of live slaughter cattle would be shipped to the US. An important fact in assessing how many Canadian cattle might be exported to the US is that the US border reopened to boneless beef from cattle under 30 months in late August 2003, after all cattle and beef trade was suspended in May 2003 when the BSE discovery occurred. As such, it is likely that when cattle exports to the US resume, Canadian cattle exports could simply offset boxed beef exports already occurring, at least to some degree.

Given the length of time the US has banned cattle imports from Canada and the uncertain future of any re-opening of trade between Canada and the US, beef packing slaughter capacity has been expanding in Canada. This increased slaughter capacity will absorb some of the backlog of cattle present in Canada. However, complicating the Canadian slaughter capacity issue is the fact that cull cow and bull slaughter is a strong substitute for fed cattle slaughter. That is, if a large backlog of cull cows and bulls is present in Canada, and older cattle cannot be shipped to the US for slaughter, these older animals could fill some portion of Canadian slaughter capacity. This would push more fed cattle to the US market than would be the case without a backlog of cattle over 30 months of age. The number of fed cattle displaced by non-fed animals depends also upon whether the US allows imports of beef from cattle greater than 30 months of age. As originally proposed, the US would have allowed the import of Canadian boneless beef from cattle over 30 months of age but not live cattle from this age group. However, recent modifications to this policy preclude imports of beef from cattle over 30 months of age when live cattle trade resumes on March 7, 2005. With no major export market for beef from animals over 30 months of age, there will be less incentive for Canadian packers to slaughter older animals in place of fed cattle than there would be if the export of beef from older animals to the US was allowed.

Canadian Cattle Inventory

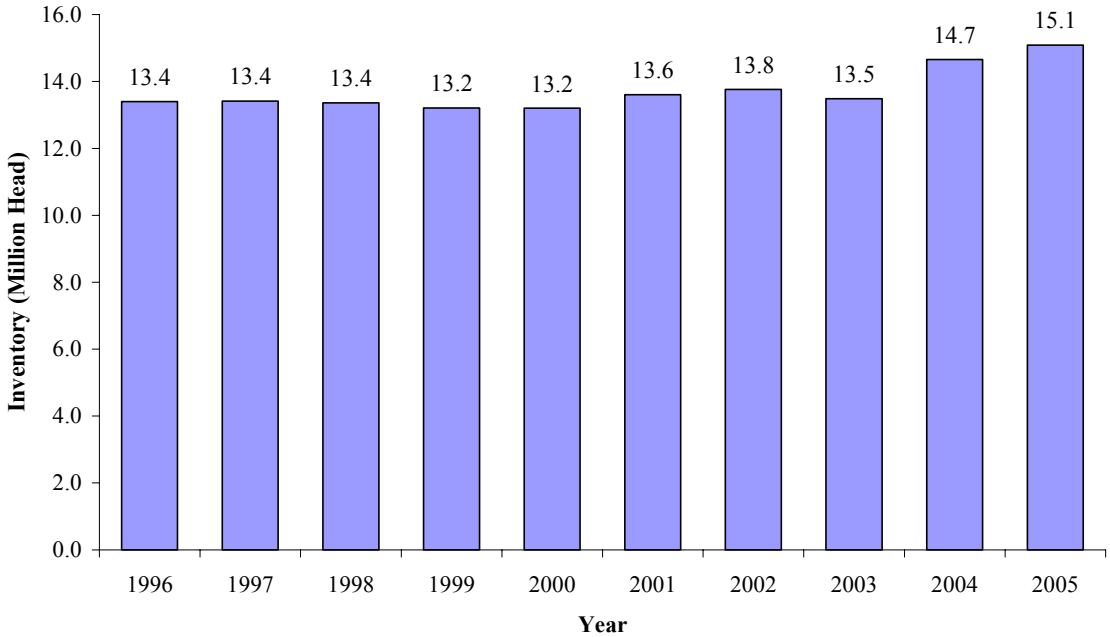
The first step in determining how many cattle are likely to be exported from Canada to the US when the border re-opens is to gain an understanding of Canadian cattle inventory numbers. Total Canadian cattle inventory increased substantially by about 9%, from January 2003 to January 2004 and inventory increased another 3% in January 2005 (Figure 1). Roughly half of the 1.6 million head inventory expansion from 2003 to 2005 was an increase of 803,000 head in the number of calves less than one year of age. The increase in calf inventory suggests there was a significant increase in the number of calves that were delayed from being placed on high energy feed rations in feedlots because of the poor market outlook. There was also considerable growth in beef cow numbers (up 568,000 head) from 2003 to 2005. The main reason for this growth was the minimal amount of culling of old cows and bulls because the price of cows in Canada dropped dramatically after May 2003 (Figure 2). Although the Canadian cow price has not recovered much relative to US prices since 2003, cull cow slaughter must eventually increase back to more normal culling rates. The only alternative is an increasingly aged cow herd, which would lead to reduced productivity.

Prior to the US border closure of May 2003, Canadian slaughter cow and bull exports to the US nearly doubled from about 157,000 head in 2000 to 306,000 head in 2002 (Figure 3). In 2002 total slaughter of Canadian cows and bulls in the US and Canada exceeded 800,000 head. Canadian cow slaughter increased so much in 2002 due in part to severe drought conditions in the Canadian western plains region. In 2003 and 2004, total Canadian cow and bull slaughter (in the US and Canada) declined to approximately 460,000 head each year (Figure 3). This substantial reduction in cull cow slaughter for two consecutive years has created a backlog of cows to be culled, although aggressive culling in 2002 helped it from being more substantial. The backlog of cull cows is a

significant factor in determining probable exports of fed cattle from Canada to the US. With limited slaughter capacity, and the inability to send cull cows (live or as boxed beef) to the US, cull cow slaughter will effectively displace some portion of fed cattle slaughter in Canada.

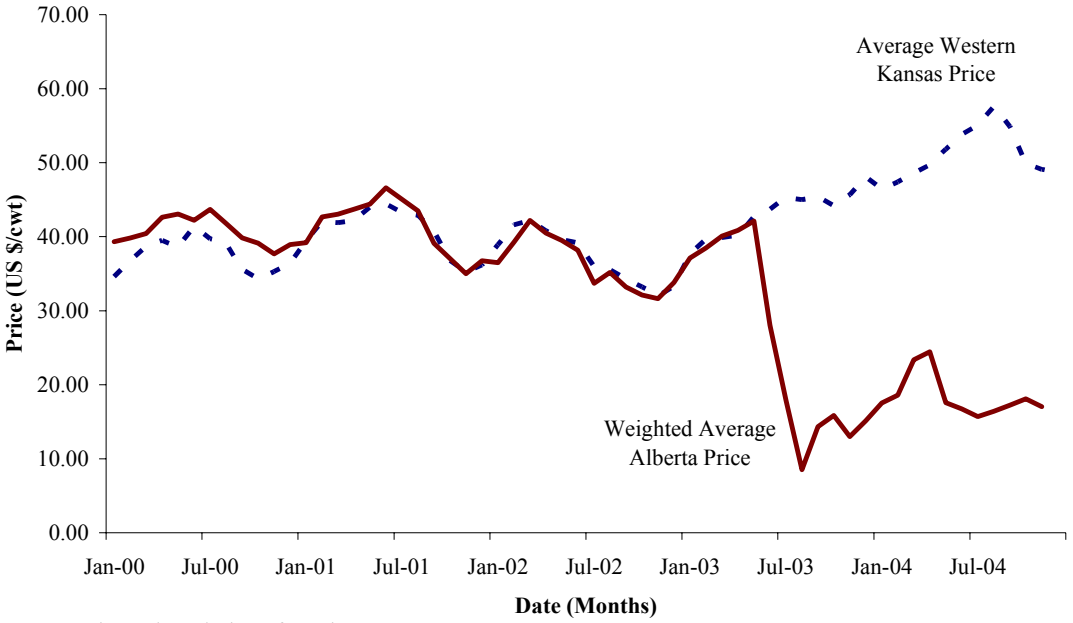
Table 2 summarizes Canadian cow and bull slaughter in the US and Canada since 2000. From 2000 to 2002, cow and bull annual slaughter rates were between 10.9% and 13.7% of total cow and bull inventory. Cow and bull slaughter in 2003 and 2004 dropped to only 7.6% and 7.2% of inventory. This slowing of the culling rate for two consecutive years has resulted in a relatively large number of older cows in the breeding herd. As slaughter steers and heifers are allowed to be exported to the US, both Canadian fed slaughter cattle and cull cow prices will increase. Increased cull cow prices will encourage higher cull rates and will reduce the backlog of older breeding animals. Two critical factors in determining how much cow slaughter will increase are the January 2005 Canadian cattle inventory number and the cull rate. We assume here that the cull rate will increase back up to 11%. However, it is possible this increase could be greater, especially in the short term, depending upon how much recovery occurs in the cow price. If we assume cull rates go back up to a conservative estimate given the backlog of 11% then 2005 cull cow and bull slaughter in Canada would be approximately 732,270 head.

Figure 1. Total Canadian Cattle and Calves Inventory, January 1, 1996-2005.



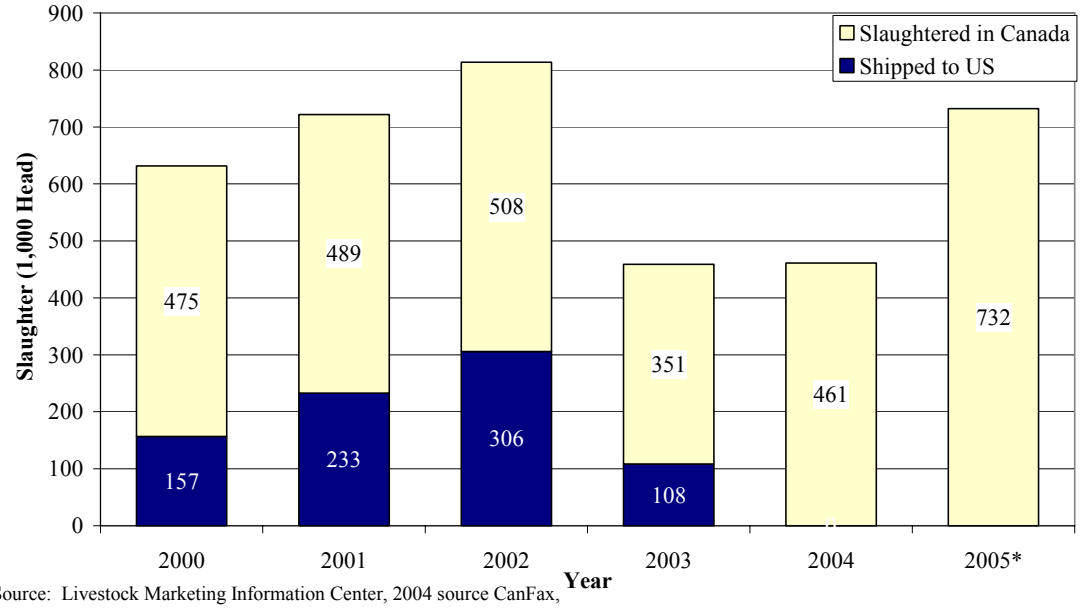
Source: Livestock Marketing Information Center and Statistics Canada Agriculture Division

Figure 2. Average Monthly Prices for Slaughter Cows in Kansas and Alberta, 2000-December 2004.



Source: Livestock Marketing Information Center

Figure 3. Total Annual Canadian Cow and Bull Slaughter in the US and Canada, 2000-Projected 2005



Source: Livestock Marketing Information Center, 2004 source CanFax,
*2005 authors' projections

Table 2. Canadian Cull Cow and Bull Slaughter, 2000-2004 and Projection for 2005

Year	US Slaughter of Canadian Cows & Bulls (head)	Canadian Cow & Bull Slaughter (head)	Total Cow & Bull Slaughter (head)	Canadian Milk & Beef Cow and Bull >1 yr Total Inventory (head)	Total Slaughter as a % of Inventory
2000	156,645	475,089	631,734	5,785,300	10.92%
2001	232,927	488,661	721,588	5,932,600	12.16%
2002	305,626	507,817	813,443	5,956,900	13.66%
2003	108,248	350,723	458,971	6,057,100	7.58%
2004	0	461,000	461,000	6,368,300	7.24%
2005	**0**	**732,270***	**732,270***	**6,657,000**	**11.00%***

Source: Data obtained from Livestock Marketing Information Center and CanFax (original source Statistics Canada Agriculture Division)

* Authors' slaughter projections based upon January 2005 Canada inventory

Canadian Cattle Feeding Situation

The next step is to determine the number of fed and feeder cattle that are likely to be exported to the US when the border opens. These two are strong substitutes and their relative mixture depends upon feedlot capacity and feeding costs in Canada relative to the US. Either feeder cattle or fed cattle may be exported more heavily relative to the other, depending upon how profit opportunities signal optimal cattle finishing location. Based upon data compiled by CanFax, Figure 4 illustrates recent actual and projected cost of gain for finishing fed cattle in the US and Canada. This graph indicates cost of gain for finishing cattle in Alberta follows a similar pattern to, but has been below, US cost of gain during 2004. Further, CanFax has projected the cost of gain in Alberta to remain below US cost of gain at least through early 2005. As such, cost of gain does not appear to be an incentive toward higher feeder cattle exports, relative to fed cattle, to the US. Instead, feedlot capacity in Canada will likely be a more important determinant of how many calves will be finished in Canada relative to the US. Feedlot capacity is not a constraining factor at this point in the US because the US cattle inventory is near the recent bottom of the cattle cycle.

Cattle on feed numbers in Canada have increased in 2004 and 2005 after being substantially below recent years. In late 1999 cattle on feed numbers in Alberta and Saskatchewan were nearly 1.5 million head. By December 2003 cattle on feed inventory had dropped by more than 35% to 942,000 head but then increased to 1.04 million head by December 2004 (Figure 5). Although cattle on feed numbers in Canada have increased recently, historical numbers suggest feedlot capacity is not exhausted.

Figure 4. US vs Alberta Total Cost of Gain for Cattle Feeding, January 2000 - Projected April 2005

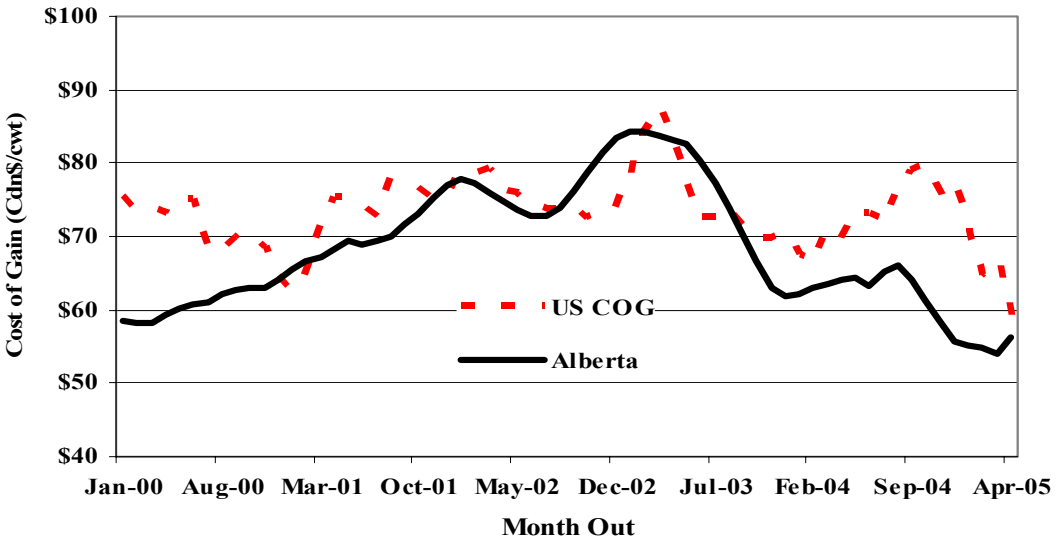
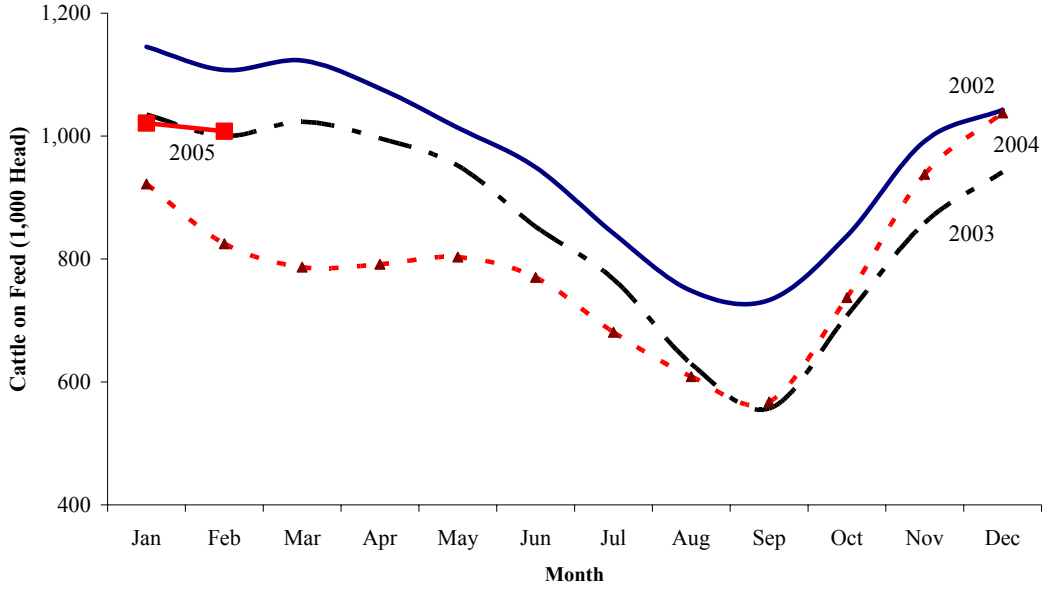


Figure 5. Monthly Alberta and Saskatchewan Canadian Cattle on Feed (COF), 2002-February 2005

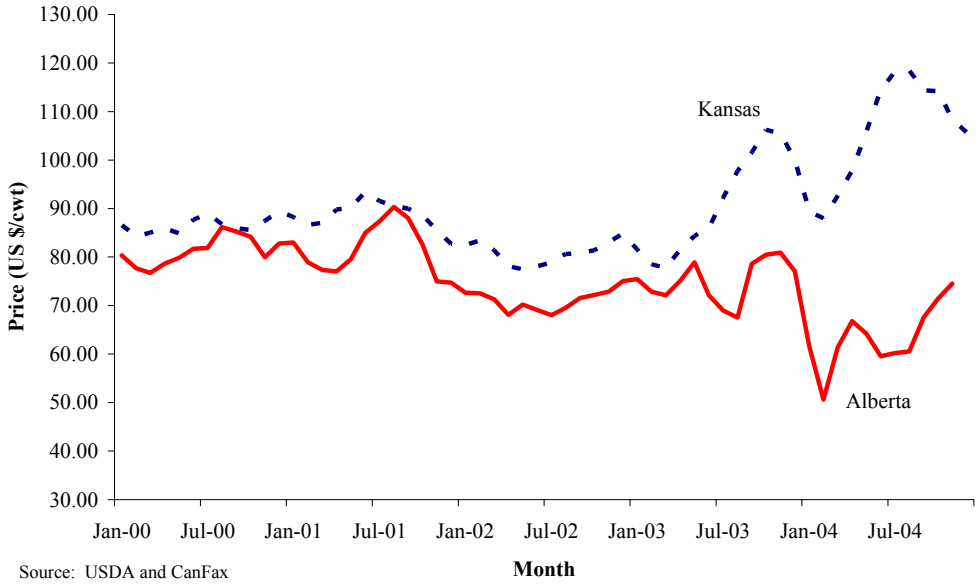


Source: Livestock Marketing Information Center and CanFax

Of importance as we consider how many feeder cattle might be exported from Canada to the US is the price of feeder cattle in the two countries. Prices of 700 to 800 pound feeder cattle in Kansas and Alberta are presented in Figure 6. In the past, these prices followed each other relatively closely, with Canadian prices typically being $3 to $8/cwt (US dollars) below those of the US. However, since the border closure, Canadian feeder prices plummeted relative to US prices. In fact fed cattle prices have been $40/cwt, or more, lower in Canada relative to the US during much of the time since the border closure. Within the last few weeks, in anticipation of the border opening, Canadian feeder cattle prices have gained strength relative to US feeder prices.

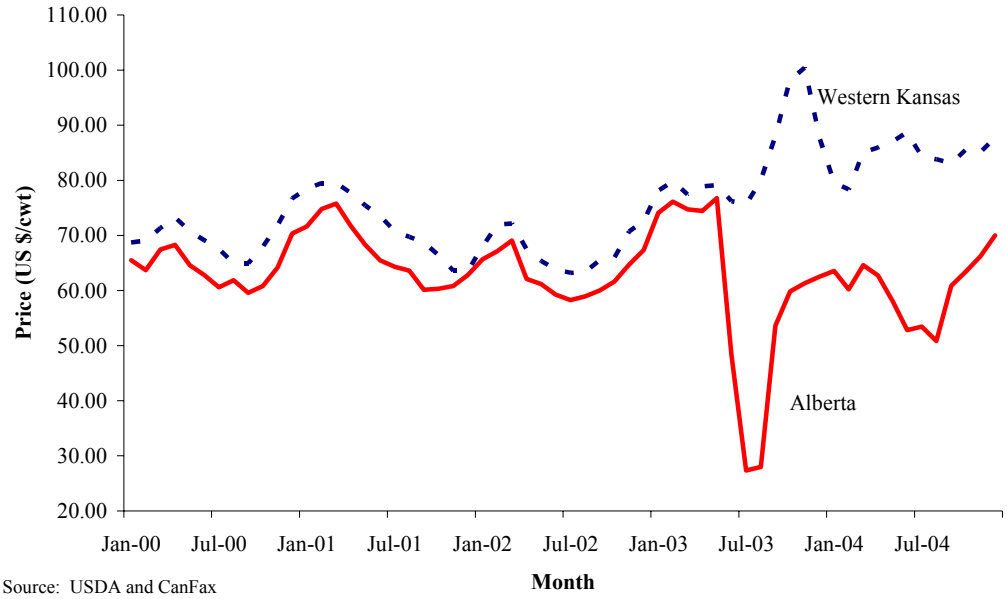
The feeder cattle price is, of course, strongly related to fed cattle prices. However, short run supply adjustments are easier to make in feeder cattle than in fed cattle. Because of this, Canadian feeder cattle prices did not drop as dramatically in 2003 as did the price of fed cattle. Figure 7 illustrates monthly fed steer prices in Kansas and Alberta over 2000 to 2004.

Figure 6. Monthly Average Prices for 700-800 Pound Steers in Kansas and Alberta, January 2000 - December 2004



Source: USDA and CanFax

Figure 7. Monthly Average Prices for Fed Steers in Kansas and Alberta, January 2000 - December 2004



Source: USDA and CanFax

Export Equilibrium

Feeder cattle, fed cattle, and boxed beef exports from Canada to the US occur until prices for these commodities across the two countries attain spatial equilibrium. As trade occurs, US prices will decline and Canadian prices will increase. This has already happened with boneless boxed beef because boxed beef trade has been on-going. The US cattle market is much larger in terms of cattle numbers and beef production than the Canadian market. For example, fed steer and heifer cattle slaughter in the US in 2004 was 26.5 million head compared to Canadian fed slaughter of 3.43 million head. Thus, for a given number of cattle exported from Canada to the US, the Canadian cattle price increases by a much greater proportion than the US price declines. If the elasticity of demand for fed cattle in the two countries is similar, which is probable, when the border reopens, a 1% increase in Canadian exports of cattle to the US would have roughly 7 to 8 times the price impact in Canada as in the US and the impact would be in the opposite direction. That is, a 1% increase in fed cattle exports from Canada to the US would increase Canadian price by roughly 7 to 8 times as much as it would reduce US price.

Table 3 is a summary of a simulation of how fed cattle exports from Canada to the US would be expected to affect fed cattle prices in each country. Several important assumptions are made in formulating analysis in this table. First the elasticity of demand for fed cattle in each country is assumed to be -0.76. This elasticity is consistent with that used by USDA-APHIS and it is similar to other published estimates of demand elasticity. Second, we use fed cattle slaughter levels of 2004 as our starting base for each

country. Third we use an initial price in the US of $86/cwt for fed cattle and in Canada of $66/cwt (both in US dollars), which is roughly where these price levels were in late 2004. We also assume boxed beef exports from Canada to the US are unchanged from 2004 levels (if boxed beef exports increase, then fed cattle exports will decrease and vice versa). Further, we assume, for this scenario, that all cattle trade is fed cattle and not feeders. This last assumption allows estimating the total number of fed cattle trade that is needed to move the fed cattle markets in the two countries back into equilibrium with no other changes. Whether the cattle trade as feeder cattle or fed is not particularly important for this part of the discussion. For this analysis one could reasonably assume that a feeder animal and a fed animal are perfect substitutes and the only difference between the two is timing of export. Of course we recognize that the economic implications for cattle feeders, beef packers, and other industry participants differ markedly depending upon whether feeder cattle or fed cattle are exported to US.

Results of the simulation indicate that if Canada exports 171,000 head, or 5% of 2004 slaughter to the US, this would increase fed cattle prices in Canada by 7.6% and reduce US price by 1.3%. On average over the 2000 to 2001 period the Canadian fed cattle price was $5/cwt less than US price (after adjusting for exchange rate). As such, based on this historical relationship, the total number of cattle that would be shipped to the US would be about 857,000 head (Table 3) before we would reach typical market price equilibrium between the two countries. Note again that the simulation here assumes all cattle exports are fed with no feeder cattle trade. Arguably, net feeder animal exports from Canada to the US would offset fed cattle exports by nearly the same number. Thus, this analysis suggests from a market equilibrium approach total 2005 fed and feeder cattle exports to the US would be about 857,000 head. This estimate is similar to total estimates by CattleFax (800,000 head) and CanFax (800,000 to 1,000,000) as shown in Table 1.

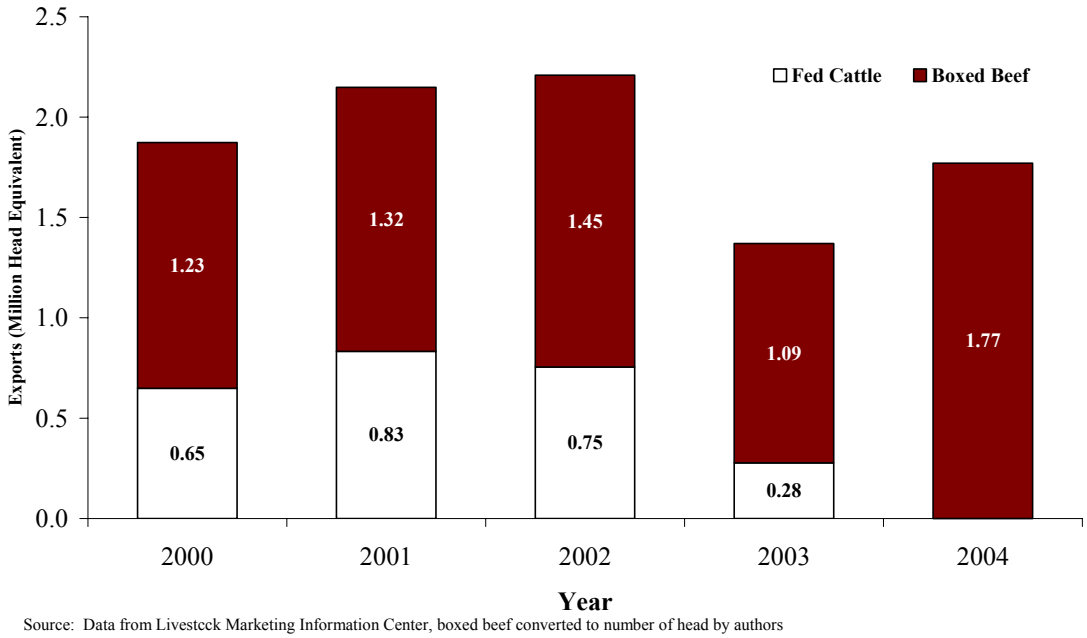
Table 3. Simulation of Exports of Fed Cattle from Canada to US and Associated Market Impacts[1]

Canada Fed Exports (Head)	Percentage of Fed Canada Slaughter	Canada Fed Price Change	Canada Fed Price ($/cwt)	Percentage of Fed US Slaughter	US Fed Price Change	US Fed Price ($/cwt)
171,450	5%	3.80%	$68.51	0.65%	-0.49%	$85.58
342,900	10%	7.60%	$71.02	1.29%	-0.98%	$85.16
514,350	15%	11.40%	$73.52	1.94%	-1.47%	$84.73
685,800	20%	15.20%	$76.03	2.58%	-1.96%	$84.31
857,250	**25%**	**19.00%**	**$78.54**	**3.23%**	**-2.46%**	**$83.89**
1,028,700	30%	22.80%	$81.05	3.88%	-2.95%	$83.47
1,200,150	35%	26.60%	$83.56	4.52%	-3.44%	$83.04
1,371,600	40%	30.40%	$86.06	5.17%	-3.93%	$82.62

[1] Uses elasticity of demand of -0.76 in each country; base price in US of $86/cwt; base price in Canada of $66/cwt; base fed slaughter base in US of 26.537 million head; base fed slaughter in Canada of 3.429 million head.

To further assess the reliability of the estimates in Table 3, consider how many fed cattle combined with boxed beef have been exported from Canada to the US in recent years. We converted total pounds of Canadian boxed beef exports to the US to an approximate number of fed cattle carcasses by dividing boxed beef carcass weight exports by 750 pounds per carcass prior to June 2003 and by 600 pounds per carcass after that. Different conversions were used to reflect the fact that all Canadian beef exports to US after May 2003 were boneless (with an assumed 150 pounds of bones per carcass). The resulting total of head equivalent boxed beef plus fed cattle exports from Canada to the US is shown in Figure 8. Combined boxed beef plus fed cattle Canadian exports to the US have (with exception of 2003) been relatively close to, or a bit over, 2 million head equivalent. Our estimates in Table 3 indicate combined total exports of boxed beef plus fed and/or feeder cattle from Canada could reach 2.5 million head equivalent. However, over 60% of this would be in the form of boxed beef that has already been coming to the US. Therefore, our estimate of 857,250 head of Canadian fed cattle exports in Table 3 appears reasonable and not likely understated if boxed beef exports from Canada remain similar to 2004 levels. If Canadian boxed beef exports to the US decline, increased fed cattle exports could replace reduced boxed beef exports. However, if this occurred, Canadian cattle slaughter capacity would be underutilized.

Figure 8. Annual Canadian Boxed Beef (Converted to Approximate Head) and Fed Slaughter Cattle Exported to the US, 2000-2004.

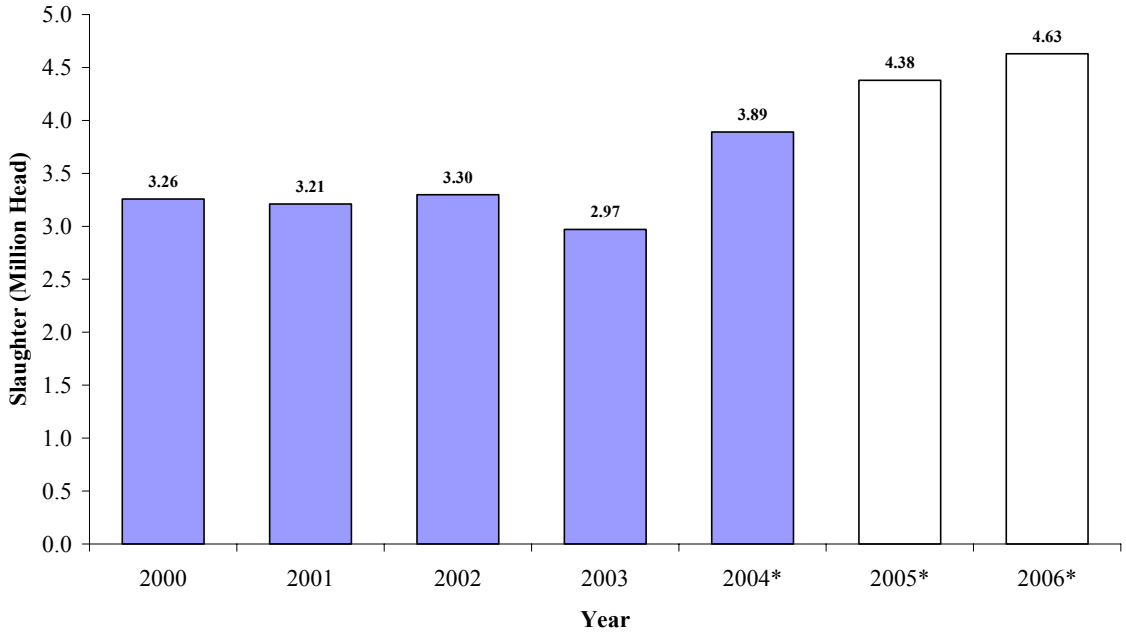


Source: Data from Livestcck Marketing Information Center, boxed beef converted to number of head by authors

A final step is to determine whether sufficient slaughter capacity exists in Canada to slaughter the presumed Canadian cull cows together with fed cattle not exported to the US. First, we need an estimate of total fed and feeder cattle available in Canada in 2005. CanFax estimates indicate that about 4.09 million head of fed cattle are likely to be available for slaughter in 2005 in Canada. Slaughter capacity in Canada is expanding. As shown in Figure 9, if slaughter is 90% of projected capacity in 2005, it is expected to reach 4.38 million head.

If cow and bull slaughter is 732,270 head (as estimated in Table 2) and there are 4.09 million head of fed cattle available, Canada will have a total of 4.82 million head of live cattle available for potential slaughter. Based on this number and a slaughter level of 4.38 million head, we estimate the surplus of Canadian slaughter cattle to be 442,000 head in 2005. Therefore, more than enough slaughter capacity appears to exist in Canada to accommodate the fed and non-fed slaughter that would exist with the estimated 857,000 head of cattle expected to be exported to the US.

Figure 9. Annual Federally Inspected Canadian Cattle Slaughter 2000-2004 and Projections through 2006 Assuming 90% Utilization Planned Expansion



Source: CanFax, * As projected by CanFax

Further Consideration of USDA Estimates

An important lingering question related back to Table 1 is, why are USDA estimates so much greater than those estimated here and by others? This section explores the methodology used by USDA to assess where we might differ in analysis. USDA estimated cattle exports to the US based upon three categories of available cattle supplies: normal fed and feeder cattle exports to the US, backlogged cattle, and fed slaughter displaced by increased non-fed slaughter. They first assumed "normal" exports of fed and feeder cattle to the US based upon export numbers from 2001 and 2002. However, exports in 2002 represented record levels of cattle out of Canada. This was, in part, a response to severe drought conditions that caused high grain prices and poor pasture conditions. Therefore, 2002 was not a normal year in regard to Canadian cattle exports. USDA further estimated that there is a backlog of 394,500 head of fed cattle and 204,000 feeder cattle. They presume this entire backlog would be exported to the US in 2005 if the border were open to cattle both over and under 30 months of age (Table 4). Backlogs of fed cattle estimated by USDA were based upon the increase in inventory between July 1, 2003 to July 1, 2004 of slaughter cattle and calves under 30 months of age held by stockers and feedlots. The USDA also assumed that the growth of 30 month and older cow and bull inventory in Canada between July 2003 and 2004 of 462,400 head would be slaughtered and would displace, or substitute for, an equal number of fed cattle that would otherwise have been slaughtered in Canada. USDA estimates for the backlog of fed cattle plus the estimated displaced fed cattle plus assumed "normal" exports total 1.5 million head of fed cattle exports to the US. The large fed cattle export estimate of the USDA was in addition to an assumed 515,400 head of feeder cattle exports to the US, which is also considerably larger than other analyst's estimates. USDA admits their backlog and displacement amounts could be off by as much as 50% so they also halved these and estimated a lower bound of 1.1 million head of fed cattle exports to US in 2005, still a considerably larger number than our simulation indicates would get the Canadian and US fed cattle markets back to spatial equilibrium.

The USDA estimates use average import levels of 2001 and 2002 and presume Canadian cattle slaughter levels would remain essentially constant through 2005. As such any increase in cattle numbers was assumed to be destined for export to the US. The assumption of constant Canadian cattle slaughter capacity through 2005, however, was incorrect. Cattle slaughter in Canada increased by 22% in 2004, relative to 2003 (from 3.19 million to 3.89 million head). Based upon expansions in 2005, Canadian cattle slaughter is expected to increase another half million head. This represents nearly a 1.2 million head increase, relative to 2003. If this increase in Canadian slaughter capacity fully materializes, using the approach used by USDA, the number of fed cattle exports to the US after adjusting for increased Canadian slaughter would be only 314,100 head (Table 4). Of course, the total increase in Canada cattle slaughter in 2005 could be tempered some if the US border opens as planned. This would make the 314,100 head of fed cattle exports to the US (using the USDA approach) in 2005 a lower-bound estimate. It should also be noted that USDA's estimates were made prior to the US Secretary of Agriculture's announcement delaying the border opening for beef from cattle over 30 months of age. We expect the USDA would revise their estimates of Canadian cattle exports to the US downward, in light of this important new policy development.

Table 4. Estimated Impact of Adjusting USDA Estimates of 2005 Canadian Cattle Exports to US for Increased Canadian Slaughter Capacity

	USDA Estimates					
Year	Fed Cattle Backlog	Fed Cattle Slaughter Displaced	Normal Exports	Total Fed Cattle Exports	Increase in Canadian Slaughter Relative to 2003	Fed Cattle Exports Adjusted for Increased Canadian Slaughter
	- - - - - - - - - - - - - head - - - - - - - - - - - - -					
2004					702,800[b]	
2005	394,500[a]	460,000[a]	652,400[a]	1,506,900[a]	1,192,800[b]	314,100

[a]Source: USDA-APHIS
[b]Source: CanFax

Concluding Comments

In this discussion we have made efforts to estimate numbers of Canadian cattle that will enter the US market in 2005 based upon the best inventory and market data available to us. However, we do not know with certainty what the mix of fed cattle, feeder cattle, and boxed beef exports from Canada to the US will be in 2005. Changes in economic conditions could alter the estimated relationships and thus the level of exports of cattle and beef to the US. For example, changes in cull rates could impact export numbers to the US and our estimates of how markets will adjust to fed cattle movement between the two countries. However, all analyses are subject to such necessary assumptions and to holding constant numerous related economic factors. The main point that must be kept in mind is that this is a very complex issue to forecast. We have collapsed the analysis down to simple counting, presuming market adjustments and relationships in order to gain an understanding of what could happen to cattle and beef trade between Canada and the US in 2005.

NCBA Canadian Trade Delegation
Final Report
February 2, 2005

Executive Committee Action

On January 6, 2004, the Executive Committee of the National Cattlemen's Beef Association appointed a delegation of U.S. cattle producers to travel to Canada on a fact-finding mission regarding Bovine Spongiform Encephalopathy. The Executive Committee requested the delegation return with answers regarding but not limited to the following topics:

- Identify Canadian cattle that would qualify for export under existing rule and determine their potential impact on U.S. producers
- Inspect feed manufacturers and secure a detailed assessment of feed ban compliance
- Verify how cattle will be inspected, identified/age and be approved for entry into the U.S.
- Determine Blue Tongue and Anaplasmosis requirements to export cattle to Canada
- Evaluate Canada's BSE testing/surveillance and review findings around recent BSE cases

Trade Team Delegation

- Homer Buell, Nebraska cow/calf producer
- James Courtney, Montana cow/calf producer
- Eric Davis, Idaho cow/calf producer and feedlot operator
- Bill Donald, Montana cow/calf producer
- Dr. Tom Field, Colorado State University animal science professor and cow/calf producer
- Gene Harris, North Dakota cow/calf producer
- Sid Viebrock, Washington cow/calf producer
- Don Hineman, Kansas cow/calf producer and feeder
- Jamie Willrett, Illinois cow/calf producer and feedlot operator

Also in attendance were Pete Crow, publisher of the *Western Livestock Journal* and NCBA staff members Gregg Doud and Kim Essex.

Visit Details

The trade delegation arrived in Calgary, Alberta, Monday evening, January 17, 2005, and returned Thursday evening, January 20, 2005.

Over an intense three-day period, the delegation met with industry and government officials and completed several field visits:

- Briefing from Can-Fax, Canada's independent economic analysis firm of the cattle industry, regarding immediate fed supply, expanded slaughter, projected marketings and export projections
- Briefing from the Canadian Cattlemen's Association regarding structural changes in the industry
- Briefing from Dr. Brian Evans, Canadian Food Inspection Agency (CFIA), regarding feed ban compliance, surveillance, border procedures
- Tours of two Feed Mills, one that processed both ruminant and non-ruminant feed (Unifeed) and the other that only processed non-ruminant material for ruminant feed (Cargill Animal Nutrition)
- Fly-over inspection of some 700,000 head of Southern Alberta's 1.1-1.2 million head in feedyards
- Tours of four feedyards
- Tour of one of Alberta's largest beef slaughter and processing facilities, Cargill's High River plant
- Tour of a rendering facility

Key Issues

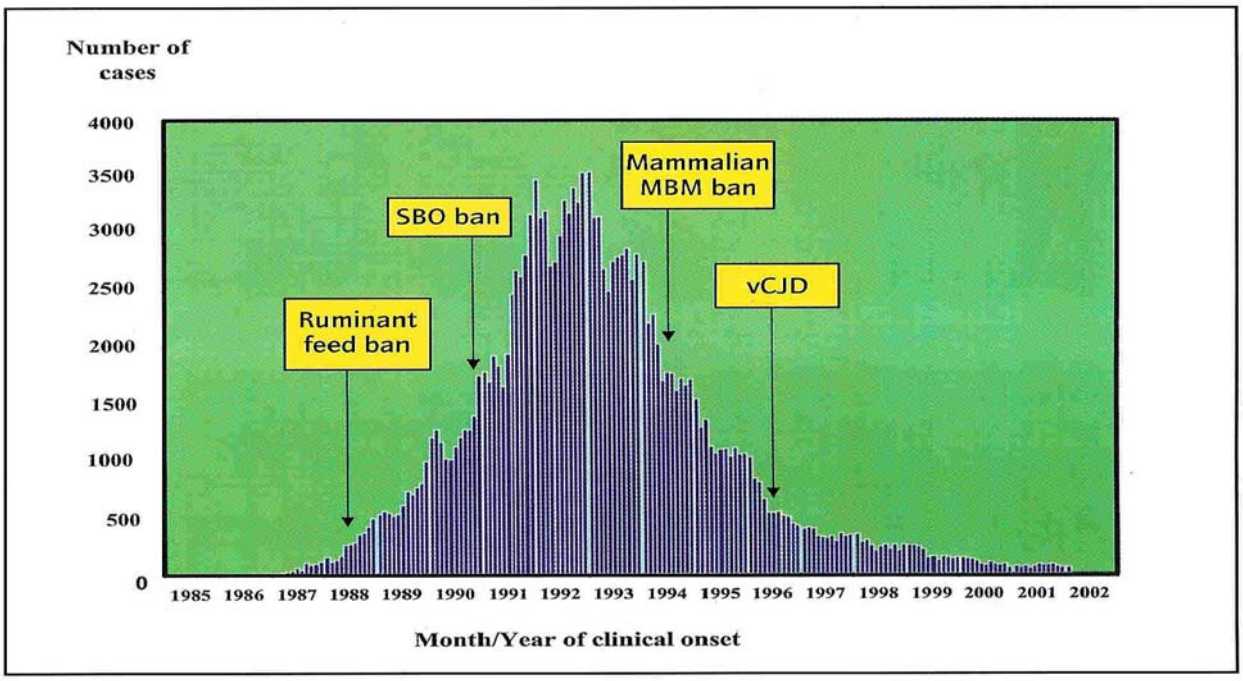
The following report summarizes the delegation's findings around these key issues:

- Case investigations
- Cattle inventory
- Feed ban procedures, compliance
- Surveillance
- Border crossing procedures
- Blue Tongue and Anaplasmosis
- Structural changes
  - Slaughter capacity
  - Set-Aside program
  - Over 30 Beef

Case Investigations

Perspective

The following graph (www.defra.gov.uk) documents the BSE growth curve in the United Kingdom, the global epicenter of this disease, after feed ban measures were put in place. Given the disease incubation period, it is clear a feed ban on ruminant-derived protein in cattle feed is extremely effective at stopping the spread of this disease. Instituting a feed ban before a BSE-positive case is ever identified, as was done in the United States and Canada, is even more efficacious. Since the feed ban was instituted, cases of BSE have dropped dramatically after accounting for BSE incubation.



Graph: Number of BSE cases in the United Kingdom in relation to feed ban implementation

According to CFIA's Dr. Evan's, at the peak of the UK epidemic in 1992, the youngest animal found to have BSE was 20 months of age, suggesting a high infectious dose. In 2004, the age of the youngest case is 49 months. The United Kingdom reported 174 positive cases in 2003, the last complete year of data.

Year of onset	Age youngest case (mnths)	Age 2nd youngest case (mnths)	Age 2nd oldest case (yrs.mnths)	Age oldest case (yrs.mnths)
1986	30	33	5.03	5.07
1987	30	31	9.09	10
1988	24	27	10.02	11.01(2)
1989	21	24(4)	12(2)	15.04
1990	24(2)	26	13.03	14
1991	24	26(3)	14.02	17.05
1992	20	26	15.02	16.02
1993	29	30(3)	14.1	18.1
1994	30(2)	31(2)	14.05	16.07
1995	24	32	14.09	15.05
1996	29	30	15.07	17.02
1997	37(7)	38(3)	14.09	15.01
1998	34	36	14.07	15.05
1999	39(2)	41	13.07	13.1
2000	40	42	17.08	19.09
2001	48	49	15.02	16.09
2002	48	51	16.04	22.07
2003	50	52	18.07	20.06
2004	49	53	16.03	22.07

To put the issue of BSE in context from a human health perspective, 40,000 people in the world died from rabies in 2004 while the human death loss from vCJD declined from 18 to 9 in the UK when comparing 2003 and 2004 data. The London School of Public Health has revised its original estimates of vCJD from 10,000,000 to less than 300. The United States and Canada have not identified a domestic case of vCJD.

Canadian Cases

Four BSE cases of known Canadian origins have been identified:

- May 20, 2003 – 70 months old
- December 23, 2004 (case found in the United States) – 80 months old
- January 2, 2005 – 98 months old
- January 11, 2005 – 81 months old

The ages of these animals and the number of cases (4) out of a total beef and dairy breeding herd of approximately 6.4 million head scientifically suggests a very low level of BSE prion exposure in Canada. In comparison, Great Britain has confirmed 184,045 cases (as of 6/30/04) within a 4.6 million head breeding herd.

Canadian Case Details

Based on CFIA investigations (www.inspection.gc.ca), the following details are known about each case.

- May 20, 2003 – 70 months old beef animal
  - *Animal was condemned at slaughter for pneumonia.*
  - *Head was submitted for testing. Carcass sent to rendering. No part of the animal entered the human food chain.*
  - *The rendered material was traced to pet food and non-ruminant feed. As many as 600 operations received as bulk feed; 1,200 others received as bagged feed. Inspections undertaken by CFIA reported that the renderer and feed mills had very good records of compliance with the feed ban. CFIA also conducted on-farm investigations to evaluate the risk of exposure and concluded 99 percent did not present an issue. Of the one percent, three farms were quarantined and 63 cattle that may have eaten poultry feed were destroyed*
  - *More than 2,700 cattle were destroyed as part of the investigation. More than 2,000 of the 2,700 were more than 24 months of age. All 2,000 were tested for BSE, and all animals tested negative.*
  - *Investigators concluded the most likely source of BSE for the infected cow was consumption of feed containing MBM (meat and bone meal) of BSE-infected ruminant origin produced prior to the Canadian feed ban in August 1997.*

- December 23, 2004 (case found in the United States) – 80 months old dairy animal
  - *Animal was declared down at the slaughter facility and samples were taken for BSE testing.*
  - *The meat from the slaughter facility was subject to a Class II recall by USDA's Food Safety Inspection Service. BSE infectivity has not been found in meat, though USDA pursued a product recall.*
  - *The likely source of exposure was contaminated feed. The feed mill's formulae showed that ruminant MBM was used in the ration until July 1997 and discontinued with the August 1997 feed ban.*
  - *Fifty-seven (57) animals were born into the birth herd from April 1996 to April 1998. Twenty-seven (27) of these animals were traced and confirmed dead, 25 animals (including the BSE positive cow) were exported to the United States, two were untraceable, and three remained in Alberta.*
  - *CFIA's investigation has not yielded any conclusive evidence that would link the first case with this case.*

- January 2, 2005 – 98 months old dairy cow
  - *Animal was identified on-farm as a downer and was submitted for testing to Canada's BSE surveillance program.*
  - *No part of the animal entered the human food or animal feed supply.*
  - *Ten (10) animals from the birth cohort have tested negative for BSE. Most of the remaining animals have been confirmed dead or slaughtered. All calves of interest (born in 2003 and 2004 when infectivity could have been transmitted maternally, though maternal transmission is extremely rare) died of causes unrelated to BSE.*
  - *CFIA has confirmed the infected animal, born in 1996, was exposed to feed rations containing MBM produced prior to the August 1997 feed ban.*

- January 11, 2005 – 81 months old beef cow
    - *Animal was identified on-farm and was submitted for testing to Canada's BSE surveillance program*
    - *No part of the animal entered the human food or animal feed supply.*
    - *While the investigation continues, right now there is no link between this case and the case identified on January 2, 2005.*
    - *CFIA reports, based on preliminary information, it is likely that the infected animal consumed feed that was produced before the August 1997 feed ban went into effect.*
    - *Test results on 33 of the birth cohort animals are negative.*

Cattle Inventory

Many estimates have been made regarding the number of Canadian cattle less than 30 months of age.

Based on tracking for more than 20 months, Can-Fax estimates:

- Approximately 900,000 head available for export
    - 600,000-700,000 fed cattle
    - 200,000-300,000 feeder cattle

USDA's economic analysis of the rule included estimates that were considerably higher, even when taking into account the Department's estimate reflects a 12-month period beginning March 7 while Can-Fax and other private sector estimates are for the 2005 calendar year. Can-Fax and Cattle Fax believe the USDA fed cattle import estimate missed the mark mainly because the Department did not fully account for the 22 percent increase in Canadian slaughter capacity between 2003 and 2004.

The trade delegation had the opportunity to literally get a "birds-eye" view of Alberta's 'feedlot alley,' flying over an estimated 700,000 head of Alberta's 1.1-1.2 million head of feedlot capacity. In 2002 (Canada's last normal trade year), Alberta fed 70.9 percent of the Canadian fed cattle population.

Can-Fax estimates Alberta feedlots are about 65-70 percent of capacity. Visual inspection confirmed this detail. The delegation's ability to actually count empty pens (estimated to be roughly about 20-25%) and see a majority of examples of where pens were at less than maximum capacity (90% is the seasonal norm) suggested that this 65-70 percent estimate is accurate. Historically these feedlots would be at 90-95% of capacity at this time of year. The Canadian feedyard industry can absorb an additional 250,000 to 275,000 feeders in the short term given the degree of un-utilized space the delegation observed.

Feedlot operators indicated the number of yearling cattle in Alberta feedlots was low, which is normal for Canadian lots; the delegation's visual inspection of the feedlots confirmed this report. The delegation saw and heard reports that there were a considerable number of young heifers that went to feed and, hence, pulled out of the breeding herd. While the delegation did not tour farm/ranch operations, sources said there are no yearling cattle in Canada still waiting to be placed in a feedlot.

The feedyard mix appears to have as high as 50% heifers suggesting that 2004 born heifers were sold as feeders to offset the losses in cull cow value occurring in the same year. Producers and feedlot operators indicated that they 'took the hit' financially on these older and heavier cattle in 2003 and early 2004. The Canadian cattle producer did not have economic incentives to grow the long-yearling population of feeder cattle

The unused capacity in Alberta's feedlots will play an important role in the coming weeks because several key individuals (via what was described as the largest (at 250-300,000 head) and second largest calf traders in the province) suggested that the fall calf "run" (marketings) were down an estimated 15-20%. The logic behind this seems to be that producers were holding back in marketing the remainder of their light calves in anticipation of the border opening and the convergence of United States and (improved) Canadian feeder calf prices.

How many 2005 crop feed calves are still out there on farms (outside of feedlots)? A definitive answer will not available until Canada's January 1, 2005 inventory figures are released mid-February. The following table, with estimates for 2005, was provided by Cattle-Fax.

January 1	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**
		Per 1,000 head				
Steers over 500 pounds	1,267	1,222	1,205	1,178	1,228	1,350
Heifers over 500 pounds	703	801	865	772	863	1,000
Calves under 500 pounds	4,315	4,482	4,574	4,286	4,975	5,300
Total feeder cattle and calf supply	6,285	6,504	6,643	6,236	7,066	7,650
Cattle on feed (AB/SK)	1,423	1,200	1,145	1,035	922	968
Utilization Rate	22.64%	18.45%	17.24%	16.59%	13.05%	12.65%
Total supply outside feedlots	***4,862***	***5,304***	***5,498***	***5,202***	***6,144***	***6,682***

One interesting anecdotal comment made to the delegation by a person who feeds Holstein calves in Alberta was that an additional 50,000 young Holstein calves were destroyed (not marketed) over the past year, over and above the historic norm of 500,000 head, because they essentially had zero value. It was also noted that shortly after May 20, 2003, feedlots owning market ready (fed) Holstein steers lost as much as C$1,000/head (US$800) on them.

Alberta's feedlot inventories appear current and recent data backs this up. For the week of January 8, 2005, average Canadian fed steer carcass weights were 838 lbs versus a 2004 average of 863 lbs. The percentage of AAA and AA carcasses were 88% and 87% of year-ago levels respectively while A grade carcasses were 129% of year-ago levels. (To avoid confusion when comparing these weights to those in the United States, it should be noted that the Canadian market typically begins discounting carcasses over 850 lbs while in the United States these discounts typically aren't present until carcasses reach 900 or even 950 lbs.)

The yield grades the delegation saw at the High River (Cargill/Excel) packing plant further galvanized this viewpoint. The plant appeared to be running full speed, and the carcasses showed no signs these cattle were marketed beyond optimal quality and yield grades. Alberta's feedlots do appear to have a portion of their inventories positioned to be ready shortly after the border opens, however, the delegation believes these to be almost entirely calves (versus yearlings).

In response to the science-based designation of central nervous system tissues being designated as specified risk materials (SRMs) in cattle older than 30 months of age, processors in Canada began to severely discount animals older than 30 months when they appeared in fed cattle slaughter facilities. These "over 30 month" (OTM) cattle were essentially marketed as cow beef, thus creating a severe economic disincentive to create these animals in the marketplace. As a result, there is no longer a heiferette industry in Canada. It also means that an OTM animal is a rarity, with Cargill's High River plant reporting finding only 0.5 percent of its production based on dentition as OTM. This OTM number is more than two percent in most U.S. slaughter plants.

Also helping to keep Canada's inventory current is strong domestic demand coupled with healthy processing margins, which mean packers have been buying cattle earlier than normal. While the High River plant intends to chill carcasses for 48 hours, actual chill times during the past two weeks ranged from 30 to 49 hours as this facility continued to maximize its ability to process cattle.

Canadian feeders reported losing significant equity in their operations as a result of the May 2003 border closures. This has reduced the capital necessary to fill these lots although most indicated that they were now making money (up to C$50/head) mostly because of break-evens in the low C$70/cwt range. The current cost of gain (cog) in Alberta was estimated at US$0.41-.42/pound of gain versus US$0.45-.48/pound in the United States. These cattle feeding margins, while aided by very low feed grain prices and ample forage (there is essentially one profitable opportunity with barley – feed it to cattle), are mainly due to a much more conservative approach to feeder cattle procurement during 2004 (versus U.S. feedlots).

Beyond availability for export, actual movement of cattle south into the U.S. will be determined by a number of factors:

- Increased slaughter capacity (see Structural Changes Section)
- APHIS requirements for age verification (See Border Crossing Procedures) and related "transaction costs." If age identification is required, the Canadian Cattle Identification Agency estimates only 50 percent of cattle younger than 30 months will be able to meet this requirement.
- The exchange rate. Owners (either US or Canadian) should prefer to keep their assets (calves) in the country with the stronger currency and that is Canada.
    - Estimated FX rates (currently at C$1=US$0.81 or US$1=C$1.24)
        (1) The U.S. dollar has declined roughly 25% against the Canadian dollar since 2002
        (2) 2006 projected FX rates are in the C$1=US $0.86-88 range (US$1=C$1.15)
        (3) By 2007 some are suggesting the FX rate could be C$1=$US1.
- Cost of gain—is currently lower in Canada and every expectation is that Alberta's cost of gain will remain under that in the United States because of ample supplies of barley and forage as well as a huge supply of feed quality wheat (that was frozen).
- Trucking. The live (fed and feeder) cattle trucking industry of pre-May 20, 2003 will be nowhere near what it once was on March 7, 2005. Those truckers are said to be making good money in Alberta's "oil patch" at the present time. Current estimates anecdotally suggest that this industry could be at 75% of its historic level once the border opens. The team's sentiment was that these trucks will be quickly found if the demand for them is there and that after the first month or so, this won't act as a governor on trade.

A key aspect of feeder cattle trade between the United States and Canada in coming months, based upon remarks from several Alberta feedlot owners, was that movement to the United States could be boosted by the weak (or relatively weaker) equity position of Canadian feedlots. Again, Canadian feedlot owners indicated that they took a conservative approach toward filling their lots last fall. They suggested that their decline in equity and aggressive U.S. procurement could mean that U.S. feedlots simply outbid those in Alberta despite Alberta's advantage in cost of gain.

It was also suggested that U.S. ownership (custom feeding) of Canadian feeder calves is already prevalent and that the United States and Canadian market could converge before the March 7, 2005 opening. Canada saw a big jump in prices just after the rule's announcement but they've fallen back somewhat in recent days.

While USDA estimated 515,400 Canadian feeder imports during the 12-month period following March 7, the delegation believes there is capacity in Canadian feedlots for some of these numbers, particularly given cost of gain. The delegation generally agrees with Can-Fax and several other private sector analysts in the United States and Canada who put this figure at between 200,000 and 300,000 during 2005. In addition, operational requirements of the rule, such as age verification, could reduce this number by as much as 50%. Most of this trade will likely involve light-weight calves. The future for the traditional Washington state buyers of heavy-weight Canadian feeders appears uncertain.

US - Canadian Feeder Cattle Trade

1000 head	US-to-Can	Can-to-US	Net
1999	139	97	42
2000	219	84	135
2001	167	161	6
2002	19	464*	-445
2003	7	103	-96

*****Canada's "50-Year" Drought

Delegation Conclusion

The Canadian cattle industry is current.

The total number of cattle available for export will be determined based on numerous and often conflicting economic factors listed above and suggest a level of feeder (estimated at 200,000-300,000 head) and fed cattle (estimated at 600,000-700,000 head) trade of approximately 900,000 head (800,000-1,000,000 head). Factors lending themselves toward fewer exports to the U.S. include:

- Increased (+22%) total slaughter capacity in Canada in 2004 calendar year, and Can-Fax estimates additional expansion in the coming years. These estimates are conservative and only account for real investment in "concrete and steel."
- Lower cost of gain in Canada
- Continuing weakness of the U.S. dollar
- Additional paperwork and documentation requirements by the United States, particularly for feeder cattle; if age identification is required, estimates are only 50 percent of "under 30" cattle will be able to meet this requirement

Economic signals that will likely promote exports to the United States include:

- Today's stronger U.S. prices
- A desire, by some, to move their assets to a more certain U.S. marketplace
- Canadian packers may choose to switch to more profitable cull cow slaughter since the beef, according to the existing rule, can be exported to the United States. (See Structural Changes: Over 30s)This will displace Canadian fed cattle slaughter, diverting these fed cattle to the United States for slaughter.

Feed Ban

Understanding Canada's compliance with its feed ban is critical as U.S. cattlemen consider their position on reinstating trade with Canada. Scientists around the world agree contaminated feed is the most likely vector of BSE in cattle.

Current Regulations

The United States and Canadian feed bans were instituted on the same day, August 7, 1997. Each country's rules were developed in tandem to ensure both countries had equivalent outcomes as to not affect the trade relationship. Canada's feed ban is a mammalian-to-ruminant feed ban, except for pure porcine or equine feed meal. Canada's feed rule also banned the use of poultry litter and plate waste. Every Canadian mill is audited annually, and affidavits are required. Ruminant-based feed include "not to be fed to ruminants" on labels and invoices. CFIA has the authority to go on feed operations without restriction, recall product and prosecute.

Current Compliance

Feed manufacturing plants we visited operated under HACCP protocols and standards were developed to conform to USDA and CFIA rules. Appropriate firewalls to segregate ruminant MBM ingredients, manufactured feed batches containing ruminant MBM, and transportation of MBM of ruminant origin are in place, are audited, and conform to BMP standards.

Currently, Canada's feed and rendering industries have instituted either segregated lines or dedicated facilities to maintain the integrity of their feed. Plant segregation and line segregation are SOP. Canadian officials reported only 17.6 percent of the feed mills in Canada are using meat and bone meal (MBM) today, although this percentage was higher in the late 1990's.

The ruminant/non-ruminant feed mill the delegation visited (Unifeed) has automated flushing and species sequencing to ensure truckloads do not contain prohibited material. This same mill had voluntarily removed ruminant protein from all their bagged feed in 2001 to eliminate the potential for cross-contamination on farm. While the Cargill mill the delegation visited only produced non-ruminant-based feed, Cargill Animal Nutrition made it a policy worldwide in 2001 to prohibit all MBM in bagged animal feed.

Animal Protein in Ruminant Feed?

On both sides of the border, there has been considerable discussion about a *Vancouver Sun* article that reported animal protein in ruminant feed.

The trade delegation questioned CFIA's Dr. Evans at length about this article. Dr. Evans said a final report on the situation is forthcoming and will be posted on the CFIA website for anyone to examine. Following is what Dr. Evans explained to the delegation.

The data reported in the article was not from a verification audit. Rather, it was data gathered as part of a training exercise to determine whether CFIA personnel could accurately assess foreign material in feed samples using direct microscopy. Of the 110 samples, 65 samples were of domestic origin, the other 45 samples were imported (one sample was imported from France, the remaining were from the United States). Analysis on both domestic and imported feed detected animal, but not necessarily prohibited, material.

Since microscopy is not sensitive enough to determine the type of animal material, CFIA conducted additional testing and determined that 90 percent of the cases in question contained *non-prohibited* animal protein. In the remaining 10 percent (4 samples), the tests were unable to confirm the contaminant.

Insects and feather meal or feathers constituted the majority of the identified animal protein in the sample. One sample was determined positive for animal protein because of a single strand of human hair.

It appears the reporting on this story was sensationalized.

At or Around Implementation of the Feed Ban

On the same day, August 7, 1997, the United States and Canada mandated a ruminant-to-ruminant feed ban. This measure was taken without either country having identified a domestic case of BSE in their cattle herds. Hindsight shows this is one of the most prudent moves the United States and Canada ever made. The U.K. experience suggests the feed ban is the lynch pin for eliminating this disease. That said, there was not a feed recall at the time of implementation in either country. In fact, at the time, a recall was considered draconian by many industry participants in both countries.

Multiple risk assessments have concluded the most likely source of BSE prions came from imported cattle from the United Kingdom, later processed into animal feed. Canadian epidemiological efforts to trace out the BSE-positive cases back to herds of origin in the UK were said to be ongoing.

There appears to be two variables that distinguish the feed and rendering industries in the United States and Canada in terms of risk in the 1980s and early 1990s. While both countries imported animals from the UK prior to the known risk, the Canadian feed industry is more concentrated than in the United States. While investigations continue in Canada and officials have not been able to demonstrate a “funneling of animals” through a limited number of rendering plants, a reasonable explanation of the difference in exposure is a concentration of ruminant meat and bone meal in Canada versus dispersal in the United States.

The other possible variable involves low-temperature rendering practices in Canada during this timeframe. After further investigation, it is possible that one of the large renderers in Alberta was processing at a lower temperature. While completely within regulations, such a process would not have provided for a reduction in prion levels. It is estimated that only five percent of U.S. renderers were operating similar low-temp processing facilities during this time period. Epidemiological investigations indicate that the four cases likely represent a cluster – cattle from a fairly well defined area exposed to feed produced by two feed manufacturers that received product from one renderer. As a result of the epidemiological investigation initiated in early 2003, this particular rendering plant is no longer producing or distributing ruminant MBM. Feed ban compliance has since increased, and the situation that may have created this cluster no longer exists.

Neither of these issues is relevant for animals younger than 30 months because these animals have been exposed to feed that has been produced during this time of compliance and dedicated lines/mills.

The Future: SRM Ban in All Animal Feed?

The Canadian government has a proposed rule to ban all specified risk material in animal feed. Comments are due February 25, 2005.

If this action is taken, it will have enormous economic implications to the U.S. industry:

- It could create a situation in which Canadian fed cattle will be devalued due to a loss in the "drop credit" based on the additional costs associated with SRM disposal. Under certain circumstances, this could result in more movement of Canadian cattle into the United States to recoup that lost value.
- Depending on how an SRM feed ban is defined, this issue could create a trade disparity in which beef export markets require this measure of all exporting countries. Given that the U.S. industry is approximately ten times the size of Canada's, banning SRM from feed in the United States would present enormous economic and environmental (disposal) challenges with little to no benefits to ruminant animal health and no benefit to human health.

Canada's International Panel (commissioned after the May 2003 case) recommended this ban as an additional risk reduction measure. It appears the Canadian Prime Minister is considering this measure to better "position the Canadian industry internationally."

Delegation Conclusion

The Canadian feed industry appears to be in compliance with its feed ban, based on visual inspection and multiple annual audit reports. The majority of compliance violations involved recording keeping, specifically lack of proper notices on invoices.

Given the age of the four BSE-positive cattle, there is no reason to believe an amplification risk exists today in the Canadian feed and rendering industry. Rather, it provides evidence that the presence of infective feed was very low. Moreover, the international community agrees and feed ban data in the United Kingdom indicate that feed bans reduce the risk of spread.

It is reasonable to expect in both countries that there was a ramp-up period to full implementation of the 1997 Feed Ban, particularly as it pertains to the usage of on-farm pre-ban feeds.

The feed/rendering concentration and low-temperature hypothesis seem reasonable as a potential explanation for the four cases identified in Alberta. Because the feed ban did not specify a feed recall, limited feeding of SRM tainted feeds apparently occurred. The use of this practice appears to be low given the complete lack of evidence of widespread infection of the Canadian cattle population

Both countries have historically worked together to ensure harmonization of feed ban rules, and in the delegation's opinion, the countries need to continue to do so.

A Canadian ban on SRM in all animal feed will create economic and environmental challenges for both countries. Such a ban could potentially serve only as a trade marketing tool with no animal health or product safety benefits since feed ban compliance is proving successful given current surveillance data. This would be an expensive and environmentally hazardous over-reaction to a diminishing animal health disease. Careful analysis should be conducted to verify how such a ban would alter true risk given all other actions already in place.

Surveillance

As in the United States, Canada has instituted an enhanced BSE Surveillance program. The program is weighted by province based on cattle population; CFIA reports every province has met its target.

As in the United States, Canada tests every animal showing signs of neurological disease. Canada also is getting a significant sample of 4D (down, diseased, dieing or dead) animals from farms, as the Canadian government reimburses producers for these animals (C$225/head in Alberta (C$75/head federally funded, C$150 provincial, which in some cases could be considerably more than the C$0.05-0.23/cwt the market was offering for older cows). They also are testing a sampling of low-risk animals.

CFIA reported testing 24,000 head in 2004; it expects to test 70,000 to 80,000 cattle by the end of the calendar year 2005.

Surveillance Program Comparison

	Canada	US
1998	940	1080
1999	895	1302
2000	1020	2681
2001	1581	5272
2002	3377	19990
2003	5490	20543
2004	24,000	176,468

Note: Historically, the over 24 month cattle population (OIE criteria) in the United States has been about 7 times greater than Canada's.

This data shows Canada's sampling size is similar to the United States based on herd size (24,000 X 7 = 168,000 or 95.2% of the United States sampling size).

Canada's testing procedures are comparable to the United States, with rapid tests acting as reactors and confirmatory tests being done by IHC (immunohistochemistry).

Delegation Conclusion

The Canadian BSE Surveillance program appears to be on track to meet its targets and to provide a science-based assessment of disease prevalence. The protocol is similar to the United States, except for the on-farm reimbursement program.

Border Crossing Procedures

USDA's APHIS is creating the specifications under which the movement will happen. Details have yet to be provided; however, it is clear that it will be incumbent upon the Canadian industry and government to create an auditable system that meets APHIS specifications.

The critical question is how age will be determined. The Canadian animal identification program provides one method for determining age.

The Canadian Cattle Identification Agency (CCIA) mandates individual animal ID. All cattle are tagged prior to leaving their herd of origin. The system also includes individual producer pins, data recording and audit procedures. CFIA assesses fines if tags are not present.

These identification numbers stay with the animal until carcass inspection. At that time, the number is read to provide slaughter date/location and then the number is retired.

Canada recently set up its ID program so that producers can retro-actively log on to the CCIA's website and enter in birth dates based on (for example) the date that bulls were turned in or the date that the first calf was born.

It was estimated that while less than 10% of the 2004 crop currently has birth records, some 50% of the crop could have this information by the time producers have completed retroactively entering this information.

This information will likely be a requirement for most of the 2005 Canadian calf crop (presumably giving Canada a significant advantage in exporting to Japan).

CCIA has a variety of program enhancements in the works, including premise ID, lot ID and animal tracking through GIS/GPS. CCIA is moving to the RFID tag and will only sell RFID tags beginning July 2005.

A more formidable question is how to address age verification of U.S. feeder cattle to Canada that return to the United States for slaughter. Depending on APHIS requirements, a date of birth may also be needed for U.S. feeder cattle sent to Canadian feedlots that will be slaughtered in the United States.

Also, the existing USDA rule allows for movement of pregnant heifers younger than 30 months, but does not permit trade of fetal blood serum. This appears to be an inconsistency in the rule.

Delegation Conclusion

APHIS border requirements will be required of U.S. cattle exports. It is important the U.S. industry provide perspective as APHIS considers its specifications to the rule. It also is important that USDA provide clarification on the fetal blood serum issue and address the apparent inconsistency.

Blue Tongue and Anaplasmosis

This U.S. export issue has been resolved in feeder cattle, with 39 states permitted to export feeder cattle to Canada. There was discussion that this rule would be extended to include animals of all ages (specifically breeding cattle), but a commitment was not provided. Additionally, Canada assesses a fee with the importation of feeder cattle into Canada. The most recent paper concerning the matter is attached in the appendices.

Delegation Conclusion

This issue needs to be resolved for animals of all ages, including breeding cattle.

Structural Changes

The Canadian cattle industry has responded to the economic consequences of a closed border by taking steps to reduce its dependence on the U.S. packing and feeding infrastructure.

Slaughter Capacity

Can-Fax reported a 22 percent increase in slaughter capacity in 2004, with expansions of existing plants and reopenings of two plants. Can-Fax reports these numbers as conservative, based on "concrete and steel" commitments. They are projecting the following increases in slaughter capacity:

- 18 percent increase in 2005
- 4 percent increase in 2006
- 8 percent increase in 2007

CCA indicated that there are as many as 25 plants either being expanded, in the process of being constructed, or on the drawing board, including producer-owned initiatives.

Canadian fed cattle marketings were 3.5 million head in 2002, 3.2 million in 2003 but an estimated 3.9 million in 2004. Can-Fax is currently projecting 2005 fed cattle slaughter at "between 4.2 and 4.6 million head depending on the utilization rate plants operate at."

This nearly 1 million head increase in Canadian slaughter capacity (2002 versus 2005's projection) compares to (1998-2002) average U.S. imports of Canadian fed cattle of 642,000 head and suggests that Alberta feedlots will no longer need to market nearly as many of their cattle on a live basis in the United States.

Even using conservative assumptions for slaughter expansion planned but not yet built in Canada, Can-Fax argues that Canada will have adequate slaughter capacity for its cattle by 2007. This could have serious consequences for U.S. processors, particularly in the U.S. Pacific Northwest.

Cattle Set-Aside

The Canadian government is paying producers to delay marketing a percentage of their beef calf crop mostly in an effort to reduce some of the seasonal decline in prices due to a lack of access to the U.S. marketplace. In four provinces, however, dairy cattle are not allowed to participate. One province included dairy calves raised for beef. The delegation heard reports that Canadian producers put weaned (replacement) heifers into the set-aside program. Depending on the province, some 30 to 40 percent of the calf crop is eligible to participate in what is being considered a disaster relief program.

Details of the program vary by province. Some provinces paid producers up-front. Other provinces required no sale before a specified date. Slaughter postponement dates are either October 1, 2005, or January 1, 2006. Payments averaged C$100 - C$200.

For additional detail, see appendices.

Beef Over 30 Months

USDA's rule will provide for Canadian exports of boneless beef older than 30 months on March 7, 2005. While not a food safety issue, the team believes trade of "over 30" product presents serious potential for disruption in historic and normal trade flows between the United States and Canada.

Can-Fax reported the average age of cull cows pre-2003 was 9.1 years, and today it is 9.7 years. Market signals during the past several months have dictated that Canadian ranchers rebreed their "culls" to produce calves in the Spring of 2005. As much of the costs associated with this decision have already been incurred; it is unlikely these cows will be sent to market until after calves are weaned this fall.

By all accounts, there is or will be a significant supply of cull cows in Canada, which is currently said to be running at between C$20-23/cwt (U.S. $18/cwt) versus U.S. prices of around $50/cwt. The Cargill/Excel (High River, Alberta) operation is in the middle of a modification/expansion project, expected to be operational by April, 2005, which would give this plant the capability to add to non-fed slaughter. The arbitrage between the U.S. market for this lean beef and the value of these cull cows in Canada presents a significant profit opportunity and incentive for Canadian packers currently processing fed cattle to switch to cull cow (non-fed) slaughter.

In the High River plant alone, the effects of this rule could mean that the facility's 4,500 head/day capacity could potentially be converted to cow slaughter. If plants choose to convert to non-fed slaughter, this will shift Canadian fed cattle inventory to the United States for processing. Of course, it could also be argued that some of this increased live cattle trade will be offset by a reduction in Canadian boxed beef exports to the United States. It should also be noted that the United States has historically been the market for these Canadian lean beef imports, and they could simply displace U.S. lean imports from other countries such as Australia, New Zealand and most recently Uruguay.

The percentage of beef from cattle older than 30 months in frozen inventory also is unknown, but anecdotal information suggests that Canadian non-fed beef supplies are not burdensome at the moment with low cull cow prices accomplishing their objective of keeping these type of cattle from coming to market.

Delegation Conclusion

Slaughter Capacity

USDA's economic analysis did not adequately take into account increases in Canadian slaughter capacity during 2004. It is clear the Canadian industry does not want to be as economically predisposed to the U.S. market as they were prior to BSE.

While slaughter capacity estimates vary, it does appear that the longer the border stays closed, the more likely these structural changes in packing capacity become permanent.

This shift will have the greatest impact on smaller facilities in the United States and facilities in the (Pacific) Northwestern states. This situation also has the potential to create further consolidation in the North American packing industry.

That said, cattlemen on both side of the border would agree "whoever comes up with the last quarter gets the cattle."

Set-Aside

The delegation believes the same ground rules should apply for enrolled cattle slaughtered in Canada as those exported to the United States.

Over 30s

With SRM banned from the human food supply in both Canada and the United States, all beef regardless of cattle age is safe. The issue of importing beef from animals older than 30 months is economic. By allowing the export of "over-30" beef cattle into the United States, all the financial advantages go to Canadian processors at the expense of U.S. non-grain fed processors. This beef (and processing/production shift) will negatively impact the U.S. price for cows, particularly regionally, as more "over-30" beef will be exported into the United States.

Table 1: Domestic controls and import policies for BSE in the United States of America and Canada

	United States of America	Canada
Notification	1986 – BSE officially reportable	1990 – Compulsory notification and investigation of all cattle showing clinical signs compatible with BSE
Import Policies	1989 – USDA bans the importation of live ruminants (cattle, sheep, goats, etc.) and most ruminant products from the United Kingdom and other countries where BSE was diagnosed. 1997 – USDA prohibits the importation of live ruminants and most ruminant products from all of Europe. 2000 – USDA prohibited all imports of rendered animal protein products, regardless of species, from Europe. The restriction applies to products originating, rendered, processed or otherwise associated with European products.	1988 – a ban was placed on the importation of commercial shipments of meat meal, blood meal, bone meal, and other inedible meat products from countries other than the U.S. 1990 – a ban was placed on further cattle imports from the U.K. All remaining imported cattle were placed under a monitoring program. Following the detection of BSE in one of these animals in 1993 all other animals were slaughtered and incinerated. 1991 – a ban was placed on beef products from European countries not free from BSE. 1994 – a ban on live cattle imports from countries where BSE had been diagnosed in native cattle. 1996 – a consolidated BSE import policy was implemented. BSE-susceptible livestock or animal products, including rendered animal protein from all species, can only be imported from countries Canada designates as free of BSE following a risk assessment.
Feed ban	1997 – FDA introduced a mammalian to ruminant feed ban (with the exception of blood and blood products; gelatin; inspected meat products which have been cooked and offered for human food and further heat processed for feed (such as plate waste an used cellulosic food casings); milk products (milk and milk proteins); and any product whose only mammalian protein consists entirely of porcine or equine protein.)	1997 – A mammalian to ruminant feed ban (with the exception of pure porcine and equine meal; and milk, blood, gelatin and rendered animal fat from all species) was introduced.

Table 1 (cont'd): Domestic controls and import policies for BSE in the United States of America and Canada

Surveillance	1990 – USDA intitiates a surveillance program to examine brains of U.S. cattle. 1994 – Surveillance expanded to incorporate new technology (immunohistochemistry) of testing brains for the partially resistant form of the prion protein which is indicative of the TSEs. 1999- October – USDA expands surveillance of fallen stock (downer cows) as evidence in Switzerland supports this population as an effective target. 2000 – Surveillance of fallen stock increases even further and USDA regionalizes states to increase coverage. 2002 – USDA tested 19,990 cattle for BSE using a targeted surveillance approach designed to test the highest risk animals, including downer animals (animals that are non-ambulatory at slaughter), animals that die on the farm, older animals and animals exhibiting signs of neurological distress. 2004 – USDA is working closely with industry to reposition its efforts to collect samples of high-risk animals for BSE surveillance testing on farms, at rendering facilities, and other locations. Seven geographically dispersed state laboratories are approved to assist in BSE surveillance. Plans are announced to increase surveillance numbers to between 201,000 and 268,000. In addition to the highest BSE risk populations the USDA will include a random sampling of apparently normal, aged animals from 40 U.S. slaughter plants. USDA is also working to approve rapid tests for use in the testing program.	1990 – A national surveillance program was implemented to examine the brains of Canadian cattle. 1992 – Surveillance expanded to incorporate the collection of samples from mature bovines with neurological signs from abattoirs under federal inspection and from provincial and university laboratories. Rabies negative samples tested for BSE since 1991. 1994 – Immunohistochemistry (IHC) introduced. 1996 – provincial ministries of agriculture asked to develop surveillance programs within abattoirs not subjected to federal inspection. 1997 – surveillance enhanced to increase the number of samples collected at federally inspected abattoirs. 2001 – minimum targets were set in selected federally inspected abattoirs for submission of samples from condemned animals. Sampling based on the geographic distribution of dairy cattle. Provinces expand their surveillance program to include emergency slaughter, non-ambulatory (downer) animals and dead stock. A National TSE Veterinary Diagnostic Laboratory Network was established to ensure consistency of diagnostic testing nationally. 202 – additional abattoirs were included in the federal program and the target population was refined (dead on arrival, emergency slaughter and non-ambulatory (downer) animals.) IHC testing introduced into provincial laboratories. 2004 – CFIA aims to test a minimum of 8,000 animals over the next 12 moths, and then continue to progressively increase the level. Testing will focus on those animals most at risk of BSE (animals demonstrating clinical signs consistent with BSE, non-ambulatory (downer), emergency slaughter and condemned animals and dead stock.) A rapid test will be used as a routine screening tool.