UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Public Workshops Exploring Competition Issues in Agriculture
Livestock Workshop

A Dialogue on Competition Issues Facing Farmers in Today's Agricultural Marketplaces

Colorado State University - Lory Student Center
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SECRETARY VILSACK: Good morning. I just want to welcome everyone to the fourth joint competition workshop between the Department of Agriculture and the Department of Justice. I want to take this opportunity to thank Colorado State University for the help that they have provided in setting up this workshop, allowing us to use their facilities, and accommodating an overflowing crowd. We know that this workshop has generated a lot of interest, and Colorado State University has done a great job in making it possible to have the space to accommodate folks here today.

Today, we intend to focus on the livestock industry and whether there is proper competition to ensure producers are getting a fair shake. These workshops will help us understand the issues that are of most concern and deserve closer attention and to explore the appropriate role, if any, for antitrust or regulatory enforcement in the agricultural industry.

In March, we held a workshop on general farm issues in Hinton, Iowa. In May, we gathered in Normal, Alabama, to discuss poultry issues. In June, we discussed dairy issues in Madison, Wisconsin. Moving forward, we intend to hold one final workshop on December the 8th in Washington, D.C. President Obama provided a clear direction that government should be open and transparent, and these workshops are designed to do just that. We want to have a public dialogue on these very complex but important issues.

As I travel across the country, I hear a consistent theme. Producers are worried. They're worried whether there's a future for them and for their children in agriculture. There are many ingredients needed for someone to get into farming and ranching. He or she needs to have access to capital to get the land equipment and livestock, they need to be willing to take significant risks and work very hard, and they need to know that there's an open and competitive market for their livestock and for their commodities.

Livestock producers are extraordinarily innovative, despite enduring some very difficult times. The USDA is designed to support producers' ability to join together, to market their products, to find value-added opportunities, and to enter into contract arrangements. Additionally, we look to support producers in their efforts to work hard and to receive a premium for their efforts.

Now, there are troubling statistics concerning the livestock sector. The top four cattle packers control roughly 80 percent of steer and heifer procurement, and the top four hog packers control roughly 65 percent of hog procurement. In 1994, the spot market for hogs was 62 percent. Today, it is only roughly 5 percent nationally. And new figures just recently developed are showing it dipping below 4 percent for the first time ever.

In cattle, depending upon what part of the country you live in, the spot market is also rapidly declining. In 1999, the spot market for cattle was 68 percent. Today, it's closer to 52 percent nationally. And we know in some parts of the country, it's less than 30 percent. This thinning spot market is a concern because it sets the base prices in marketing contracts.

In the retail sector, the top four retailers now control 37 percent of the market up from 17 percent in 1992. And consolidation in this sector can have a squeeze on the packing sector and have ripple effects all the way down to the producer. Some have argued that the status quo is better for livestock agriculture and that the current system has resulted in efficiency and innovation. But I think we need to take a look at where we are.

Under the status quo, there has been a significant exodus from agriculture and a depopulating of rural America. In the past 40 years, the United States has lost 800,000 farmers and ranchers. And those that remain are aging. From 2002 to 2007, our last ag census, the average age of a farmer increased from 55 to 57. The number of farmers age 75 and older has increased by 20 percent over the same period. Meanwhile, the number of operators under 25 years of age has decreased by 30 percent. The sad fact is that young people find it very difficult to get into this important occupation and calling we call farming.

Fifty million people now live in rural America, urban areas are growing at a much faster pace, and more than half of rural counties have lost population. Today, if you consider all family-farm operations, only roughly 10 percent of family-farm income comes from farming. And more and more of our farmers are looking elsewhere for a primary source of income. Rural communities have higher poverty rates than the rest of the country. And the average per capita income of rural residents is approximately $11,000 below their urban and suburban counterparts.

In 1980, there was 666,000 hog farms. Today, it's roughly one-tenth of that; 67,000. A similar situation exists in the cattle industry. In 1980, there were over 1.6 million farms. Today, there are roughly 950,000 cattle farms. In 2009, a hog producer received 24.5 percent of the retail value of the hog, and it was over double that percentage in 1980 at near 50 percent. Last year, 13.6 percent went to the packer and 61.9

percent went to the retailer. A cattle producer gets 42.5 percent of the retail value of a steer in 2009, which compares to 62 percent in 1980. Last year, 8.5 percent went to the packer and 49 percent went to the retailer.

While the causes of decline in farm numbers is complex, it's no secret that livestock and poultry marketplaces have become more consolidated and vertically integrated. And although there can be efficiencies found with these trends, there is also the potential for unfair practices and limited transparency which increases risk for producers. We continue to seek answers and solutions. And under our watch at USDA, we take a number of steps in an effort to improve competition in agriculture.

The USDA and the Department of Justice, as a result of these hearings, has established the Agricultural Competition Joint Task Force to explore new opportunities for utilizing each other's expertise. These workshops will also help inform the work of that task force.

To improve the efficiency and enforcement under the Packers & Stockyards Act, we've increased GIPSA's budget to improve enforcement over unfair and deceptive practices in the marketplace. And the Department is hiring more attorneys and field investigators to handle complex investigations and other violations. GIPSA recently published a proposed rule for fairness in marketing of livestock and poultry. And in December, GIPSA published a final rule to establish basic fairness in poultry contracts. So it is in this broad context that we have a conversation today.

I want to take this opportunity to thank all who have traveled here today from near and far. I especially want to thank the panelists, who will be introduced in a few minutes, for their willingness to participate in this workshop. And I look forward to hearing what everyone has to say on these very important issues. Just as a note, those who are in the overflow rooms will also have an opportunity to make their thoughts known. We have computers and staff in each of the overflow areas to take comments.

Now I'd like to take the opportunity to turn the podium over to the attorney general of the United States, Eric Holder. You need to know that during his impressive career, General Holder has served in private practice as U.S. attorney for the District of Columbia, as an associate judge for the Superior Court of the District of Columbia, and as deputy attorney general. He's worked to investigate and prosecute official corruption on the local state and federal, and he is fully invested in strong enforcement of our nation's antitrust laws to advance the interest of justice on the behalf of the

American people.

Ladies and gentlemen, please join me in welcoming the attorney general.

ATTORNEY GENERAL HOLDER: Thank you and good morning.

(Response from audience.)

ATTORNEY GENERAL HOLDER: Good morning, folks.

(Response from audience.)

ATTORNEY GENERAL HOLDER: It's Colorado. You know, it's not D.C. You ought to be happy about that.

Thank you very much, Secretary Vilsack. And also, thank you to the folks at Colorado State for helping us put this together. This is a very important -- very important workshop. And I want to thank all of you for joining us and welcoming us this morning.

I think it's very fitting that we're gathered here today in the Centennial State. Because as much as today's discussion is about cattle, hog, and other livestock industry issues, it's also about our nation's founding ideals; about fairness and about equal opportunity. And above all, it's about a better understanding and addressing the challenges that all of you face.

Now, for some of you, these challenges have never felt more urgent or difficult to overcome. And I realize this, so does Secretary Vilsack, and so does the president. Our nation is now the world's larger producer of beef and the third-largest producer of pork and pork products. And here in Colorado, the livestock industry is an economic anchor. We know that your communities and counties are, in large part, ag dependent.

Now, in this state alone, more than 100,000 jobs rely on the agriculture and food industries, and more than -- four in five farms and ranches are family or individually owned. We also know that although beef exports have been rising since the early 1990s, too many farmers and ranchers are fighting tooth and nail simply to make a living. This is a very, very serious issue, and it's a problem that we can only solve by coming together to listen, to learn, to share, and to seek out solutions. And that's why we're here today.

The discussion we have gathered to begin reflects a historic partnership between the Department of Justice, the Department of Agriculture, and leaders from across our nation's agricultural industry. It's a partnership for which not only we can better understand the conditions that you face every day -- though that's the first and crucial part of this effort -- but also, and most importantly, so that we can act.

As Secretary Vilsack mentioned, we kicked off this workshop series nearly six months ago and so far have explored competition issues in the seed, pork, poultry, and dairy industries. Today, of course, we are here in Fort Collins to learn about competition and regulatory issues facing cattle, hog, and other livestock industry sectors. And we've made these workshops a Cabinet-level priority so that we can most effectively and efficiently determine how to ensure a fairer, more competitive marketplace for all of you.

Now, we already know that for many producers, consolidation in the meat-packing industry is a top concern -- primary concern. And I want you all to know that the justice department is committed to fulfilling its responsibility to take appropriate enforcement action when a merger or other activity threatens to erode competition.

For example, when JBS proposed to acquire the National Beef Packing Company, the justice department challenged the transaction on the grounds that it would have reduced competition among packers and the sale of boxed beef and for the purchase of feed cattle. As a result of that lawsuit, the parties abandoned the transaction last year. This was an important step, but we realize that it was only a small step. We would like to hear any lingering concerns. We would like to know what more we can do.

We're also eager to discuss the fact that today many producers and consumers are unsure of whether they're getting a fair shake. Farmers have noticed discrepancies between prices at the grocery store and prices paid to producers for their livestock or for their crops. Secretary Vilsack and I are devoting our next workshop on this very issue in December in Washington, D.C., but we're very eager to air out these concerns today as well.

You know, we realize that many of you are concerned more generally about the market concentration. Now, let me assure each of you that administration leaders across and beyond the USDA and DOJ understand that having a fair and competitive agricultural marketplace is critical for producers and for consumers alike. At the justice department, vigorously and appropriately enforcing our antitrust laws is an essential part of our core mission. Today, it's also a top priority. And that's why the assistant attorney general for the Antitrust Division is sitting to my right, Christine Varney.

Now, with that said, none of us believes that antitrust enforcement is the solution to every problem. But it is a solution, and it is a part of our larger government-wide commitment to champion the pro-consumer principles that will promote competition in the agricultural sector. Now, it is with these principles in mind that Secretary Vilsack and I eager to begin today's discussion. Whether you're here to share your concerns over concentration or consolidation, pricing, or the Packers & Stockyards Act, we are here to listen. I want to emphasize that. We are here to listen. Not only do we welcome your insights and your recommendations, we are relying on them. If past is prologue, your suggestions will be many, and they will be extremely valuable.

After our call for your ideas last year, we receiving thousands -- literally thousands of comments. Already your input has been critical in guiding and in focusing our work. That tremendous response only represents a fraction of the potential that I know still exists for building on this extraordinary example of government and public engagement at its best.

Now, ultimately our conversation is about much more than simply last years's trends or this year's challenges. It is about your livelihoods. It is about your families. It is about this region's economy and our centuries-old American way of life. This is essentially about our nation. Your participation this morning gives me great hope about what we can and will accomplish together in the days and weeks ahead. Secretary Vilsack and I look forward to hearing from and working with each and every one of you. Thank you.

SECRETARY VILSACK: General, thank you very much. To kind of explain the program for this morning, the first thing we're going to do is introduce the panelists in this first panel. We have a distinguished group of elected officials and appointed officials with us today. That will be followed by a short break. We will return and I will help lead a panel of producers.

During the course of the rest of the day, you-all will be given a number of opportunities to simply have your comments heard. We have a process that Colorado State University has assisted us with; randomly selecting the folks who are here. I think you may have a number. Those numbers will be posted, and you'll know when your opportunity to speak to the mike will take place. So what I'll do now is introduce the entire panel, then I'm going to encourage any member of the panel to make any kind of opening comments that they have, then we'll have a few questions and responses.

Let me start with Governor Ritter, who is obviously no stranger to those from Colorado. But since we have visitors from all over the country here, Governor, they need to know that you were elected as Colorado's 41st governor in 2006, the first Colorado-born governor in more than 35 years, raised on a small farm.

From 1987 to 1990, Governor Ritter and First Lady Jeannie Ritter operated a food distribution and nutrition center in Zambia, Africa. He has also served as Denver's district attorney from 1993 to January of 2005. And I believe folks know here in Colorado that he earned in that position a national reputation as one of the country's most effective and innovative prosecutors. Several of his programs continue to serve both here in Colorado and as national models.

Governor, welcome.

I want to take this opportunity to welcome to the panel the Honorable Betsy Markey, U.S. congresswoman, U.S. House of Representatives, who obviously has fans in the audience.

Betsy was elected to Congress in 2008 and has respected the people of the Fourth Congressional District since that time. From 2005 to 2007, the Congresswoman served the people of the Fourth District as U.S. Senator Ken Salazar's regional director for the northern to eastern parts of Colorado. Her extensive government experiences date back to 1978 when she was hired by U.S. Congressman Herb Harris to work as a legislative aide for the subcommittee on post office and civil service. The U.S. Department of State also recruited the congresswoman in 1984 to develop computer security policies for the newly formed Office of Information Security Systems.

She's been involved and engaged in her community as president of the board of directors in the Food Bank of Larimer County. She's also a cofounder of a small business operation as well as a poplar and successful coffee and ice cream shop in Old Town Fort Collins, which all of you need to go to after this event.

Congresswoman, thank you for coming today.

Let me take this opportunity to acknowledge the assistant attorney general that's already been referred to by General Holder. Christine Varney was confirmed as the assistant attorney general for the Antitrust Division on April 20th of 2009. Prior to her appointment as assistant attorney general, General Varney held leadership positions in both the public and private sectors. From '98 to 2009, she was a partner at Hogan & Hartson, a law office in Washington, D.C., where she served in the dual capacity as a member of the firm's antitrust practice group and headed the international -- excuse me, the Internet practice group.

From 1994 to '97, she served as a federal trade commissioner at the Federal Trade Commission and was a leading official on a wide variety of Internet and competition issues. Prior to being a commissioner, she served as an assistant to the president and secretary to the Cabinet -- secretary to the Cabinet during the Clinton administration.

Christine, welcome.

We are also joined by two other attorney generals; the Honorable John Suthers from the State of Colorado. General Suthers was appointed in 2005 as attorney general of Colorado and later elected in 2006.

From 1977 to 1981 he served as deputy and chief deputy district attorney in Colorado Springs. From 1979 to '81 he also headed the economic crime division of the DA's office. From 1981 to '88 he served as a litigation partner in the Colorado Springs firm of Sparks Dix, P.C., was later elected to two terms as district attorney for the Fourth Judicial District. At the conclusion of his second term, he returned to private practice as a senior counselor in the Sparks firm in charge of the firm's litigation section. In 1999, he was appointed by the governor as the executive director of the Colorado Department of Corrections then by Governor Owens.

So, General, welcome.

We're also joined by the Honorable Steve Bullock, attorney general of the State of Montana. General Bullock was elected as Montana's 20th attorney general in 2008. He began his career in public service in 1996 as chief legal counsel to the Montana state --

secretary of state. He went on to serve four years with the Montana Department of Justice, first as an executive assistant general and later as an acting chief deputy.

During this time, he also served as a legislative director coordinating the attorney general's legislative efforts. From 2001 to 2004, he practiced in Washington, D.C., in a private firm. He also served as an adjunct professor at George Washington University. Prior to his election, he was in private practice in Montana.

And I think the last panelist that we have today is no stranger to agriculture in Colorado. Commissioner Stulp was named commissioner of agriculture by Governor Bill Ritter in 2006; farmer, rancher who has dedicated his life to Colorado agriculture. The commissioner is an active member of the National Association of State Departments of Agriculture. He's also vice president of the Western Association of State Departments of Agriculture.

He's served as a county commissioner. He's appointed -- was appointed to fill the vacancy. He's also served on numerous other boards and commissions, including the State Board of Agriculture, the State Wildlife Commission, Connect Colorado Technology Committee, the State Land Board, and the Colorado Ag Development Authority and Value-Added Board. I know -- the commissioner and I spent several meetings yesterday, and I learned a great deal about Colorado agriculture; the diversity of it. I can tell you that he is a strong, strong, strong advocate for farmers and ranchers of this state.

Commissioner, thank you for being here.

Let me let me invite the governor, if he wants to, to make a statement. We'll just kind of go in the order in which you-all were introduced. All right.

GOVERNOR RITTER: Thank you, Secretary. And I want to, first of all, actually thank and compliment the members of the administration for taking this hearing sort of to, you know, a place like Colorado where there are a lot of folks who have come from other states. It's a pretty rare thing to be in the presence of the secretary of agriculture and the attorney general -- the assistant attorney general is here as well -- and just have an opportunity, really, to speak your mind about this issue. And so we very much are honored here in Colorado by the fact that you've decided to come west for this hearing.

Secondly, I would say -- I want to tell you a little bit about CSU. It is my alma mater. It's the place I graduated from; got my undergraduate degree. I think, actually, John Stulp has me beat. He put five kids through CSU; I only put one through. But he came back --

he just started his master's program.

This is a fantastic university for a lot of different reasons. But from the agricultural science prospective, it is really one of the leading institutions in research for agricultural and animal science, such as genetics, meat fabrication, and the humane treatment of livestock, are all areas of study. That's just a few. That doesn't exhaust the full thing. But that's, in part, why we are here at this university is because it has played this key role in the west in terms of the kinds of research that goes on and really watching livestock as an industry.

You mentioned in your comments I was raised on a farm. I think it's important to keep in mind a couple of things. And that is that this conversation is, in part, about market economy for cattle, market economy for livestock and hogs. And it's important for us to ensure, you know, that we've got the right set of rules, regulations in place. But there's an intangible value to agricultural -- agricultural activity that I experienced growing up on a farm. But I think a lot of people in this room understand when I talk about it. It's the fabric of who we are in Colorado.

Agriculture is the third biggest industry that we have in this state. We have, as you said, a very diverse agricultural economy. But there's a lot about farmers and ranchers that the rest of us who don't currently do it can learn lessons from. I have the advantage. I still know a lot of people in the ranching world, the farming world. And a couple of times a year, I still have the benefit of either branding with some friends of mine who have a cow-calf operation south of Walden or moving cattle, you know, from their place up to BLM land. It's nice to be on the back of a horse and moving cattle. But you have an opportunity to speak to people who do it every day.

And this is really what my family was about when I was a kid. But now, as a person who's kind of been away from that, it is a fantastic opportunity to remember that there are a set of values that are a part of ranching and farming that are intrinsically what I would say our American values. And they have to do with hard work.

They have to do with dedication, a loyalty to the land, a loyalty, you know, to the -- to the industry; and, really, an attitude of how we pick each other up is an important part of it as well. The kinds of things that we need to do when our neighbors are in distress is still something that farmers and ranchers understand, I think, better than almost anybody else in America. And that's -- there's an intangible there. And that's why it's important to do what we can to ensure as wide a group as possible can participate in the industry.

And I know there's different feelings in this room about the regulations -- the draft regulations, and that's why you're here. But I can tell you that it is important, from my perspective as a Colorado governor, as a person who kind of came off a farm and still has a lot of friends and people I respect that are in ranching and farming that -- I think what farmers and ranchers want is a fair shake. They want to understand that the rules are there and that they work for them. They're not a group of people who want to be over-regulated. And so it's a bit of a high-wire act to have regulations in place.

They want the rules enforced. They want some certainty in it. But at the end of the day -- at the end of the day, all they really want is that it's fair and that, you know, if they are looking at a piece of beef in a grocery store that costs a certain amount of money and they were really -- it was their daily hard work that led to that beef getting to the market, they want to ensure that they're getting their fair shake. And I think that's the most important point to take away.

I, again, finish the way I started by saying this is a very important industry to this state. It's important to the West. It's important to the United

States. And we very much are honored by the fact that you're taking this time to handle such an important issue in really a very big town-hall sort of way. So thank you both.

SECRETARY VILSACK: Thank you, Governor.

Congresswoman?

MS. MARKEY: Thank you very much, Mr. Secretary, General Holder, and Governor for holding this hearing here. It's important that we get outside of Washington and get into the communities across this country to really hear firsthand on what government regulations -- how they impact individuals. And so I'm particularly happy again that you chose Colorado State University, our state's land-grant university, and also the Fourth Congressional District of Colorado. We are one of the largest agricultural-producing districts in the entire country. So it's appropriate that you hold this here in -- about competition in the livestock industry here at CSU.

I have been hearing -- I'm a member of the House Agricultural Committee and we have actually been holding field hearings around the country as well, talking about the 2012 Farm Bill, and this issue has come up as well. I been hearing from constituents on both sides of the issue, and I look forward to a productive workshop and learning more. We're really here to learn and to listen. But basically, the debate has resolved -- revolved around the impact of proposed changes on farm prices, on consumers, on global competitiveness, and a traditional U.S. system of independent farms and ranches. And inherent in these questions is the proper role of government in monitoring and regulating agricultural markets.

Now, some groups contend that the federal government has not enforced existing laws designed to prevent anticompetitive behavior and they say laws should be strengthened in order to address today's market realities. But others assert that present competition and antitrust policies remain adequate and effective. The livestock industry, as we all know, is complicated and it's individualized. And ultimately, stakeholders need to be the ones with the reigns in their hands.

For example, many producers have worked years, even generations, perfecting herds to capitalize on value-added opportunities, and we want to make sure that they don't lose that little advantage that they have worked so many years to perfect. I supported an extension of the common period of the GIPSA rule until November 22nd so that farmers, ranchers, and producers can understand the effect this proposed rule would have on farmer --

family ranching, feeding, and beef-processing businesses. I hope that this workshop will shed more light on how the GIPSA rule will affect the livestock industry and the constituents in my district. And again, I thank you for being here today.

SECRETARY VILSACK: Thank you. Assistant Attorney General Varney, I don't know if you want to add to the general's comments or not.

MS. VARNEY: Very little, Secretary.

Once again, I want to thank everyone for welcoming us here. I have a little bit of a Colorado connection. One of my children went to college in this state; not here, but down in the Springs. And I get back here every time I can. I've got another one; I'm going to try to convince him to look here. We like coming out here as much as we can.

And I just wanted to say that we're delighted to be here. This is a historic undertaking. Never before has the Department of Justice and the Department of Agriculture sat together to look at the intersection of competition and agriculture policy in the United States. And American's farmers put food on the table for all of us, and there's something wrong in the system when the farmers can't make a living, when they cannot pass that farm down to their children.

We all need to approach this with an open mind. We all have a part in the solution. And we don't have an agenda. I don't have an outcome. I don't know what the answer is. But I sure know there's a problem, and I'm here to try to understand what it is and what we can do -- what I can do, as the assistant attorney general, for antitrust under the leadership of General Holder to help fix the problem, to keep American agriculture as vibrant as it's been for the last two centuries. So I look forward to hearing from everybody today.

SECRETARY VILSACK: Thank you.

General?

MR. SUTHERS: Secretary Vilsack, General Holder, thank you so much for honoring us with your presence here and choosing the state of Colorado as the venue for this meeting. And I think it's wonderful that we've chosen a venue like Colorado State University, which is a great university that's so integral to agriculture in this state. I, like Governor Ritter, am a native of Colorado, and I come to the table with two basic propositions. And it's the -- what guides the view of my office towards agriculture.

Agriculture is a huge part of the Colorado economy -- we've reflected that -- and agricultural competition is critical to the welfare of our state and nation. I don't have a large antitrust unit in my office, but it's a unit with a great deal of expertise. And we are spending an awful lot of time examining the issues of competition in the agricultural sector, particularly the issues brought about by the tremendous consolidation that's taken place there.

We're here today to learn more. The members of my office in the antitrust unit will be present at all these meetings, and we're committed to monitoring -- I'll tell you a little bit, I think, in a later point about some actions that we've taken -- but we're committed to preserving competition in the agricultural community for the best interest of all Coloradans.

SECRETARY VILSACK: General, thank you.

General Bullock?

MR. BULLOCK: Thank you, Secretary Vilsack.

My family and I spent the weekend outside the town of Geyser, Montana, and that's a small ranching community in North Central Montana. We were there principally for a family wedding. But along with that, we celebrated the 100th-year anniversary of that ranch. And I guess what I fear is that there will be fewer and fewer of those centennial celebrations across my state. Over the last 30 years, Montana's lost on average over 150 ranches each year. The secretary said what the average age of a rancher is across the country. In Montana, it's even older. Our average age is 58 years.

It's not only about half of our ranchers that rely on their ranching and farming productions; it's their primary source of income. And 20 of Montana's 56 counties are experiencing long-term population decline. Each one of those waning counties is heavily dependent on agricultural. And I think that change in the face of rural America is likely one of the reasons why many of you traveled here today. And we each have our own definitions of what would make this and those other workshops a success. Given the size of the crowd, candidly, this morning I decided just to find a parking spot would probably be a good success, from my perspective.

But actually, my expectations are a lot higher than that, and I imagine that everybody in the audience's too. The fact that we're here today together, it signals a significant break from the past. I'm cautiously optimistic it demonstrates not only a renewed federal commitment to ensuring we have a vibrant agricultural sector but also a commitment to great state and federal coordination.

Nonetheless, I think that we also have to acknowledge that bringing this many producers and ag interests together in one room is much like organizing a firing squad in a circle. Yet there are core values that we share. It's the statistics I outlined a couple of moments ago that illustrate we ought to be able to agree that if we value keeping the family in family farming and ranching, what we're doing hasn't been working.

I'm a strong believer that you can't regulate away every problem. But I do believe that federal and state governments have a role to play here and that in decades past, governments may have lost sight of that rule. And even if we're a bit past the time where we can realistically expect to give teeth to the Packers & Stockyards Act, perhaps we could still get that 89-year-old law a new set of dentures. And I think we should look at this.

Briefly, I applaud GIPSA for taking those steps to make sure that the issues that we're addressing throughout the day every day -- contracting, concentration, marketing arrangements, and transparency -- are front and center in the proposed rules. At the end of the day, I think all anybody wants is a free market; willing buyers and sellers receiving the information they need to make a private deal on a relatively equal footing.

I support, then, crafting some workable rule that will meet those standards. And I think if we meet to think about some of those things, including first promoting transparency by giving producers the opportunity to learn the different types of marketing arrangements being offered, the producers more have to strike a deal that reflects the market, not the unequal bargaining power brought about by incomplete information and, second, clarifying what conduct is and isn't acceptable.

It's interesting. Because as a state regulator, when I enforce my state's unfair or deceptive practices act on behalf of consumers, I don't have to demonstrate that that deceptive act injured every consumer in the state. I only have to demonstrate that one consumer. I think what we do owe our -- we owe our producers at least as much as we owe the individual consumers of our respective states and a fair reading of 202(a) shouldn't require the rancher to demonstrate harm to everyone.

Third, I think that with giving those dentures, we need to clarify what are undue and unreasonable preferences and advantages. Big doesn't mean bad, and we never should suggest that it does. But by the same token, absent justification, we need to make sure that the packers aren't unfairly discounted to our smaller and mid-sized producers that can produce the same quality of livestock and do meet the same conditions set by a contract.

Now, I know that there have been a lot of concerns raised about the proposed rule that we'll be talking about throughout the day. And I guess being from the big sky country, I'm not quite willing to conceded that the sky has fallen quite yet. I'm hoping that the rule-making process will allow the opportunity for GIPSA to separate the wheat from the chaff or, more appropriately here, to steer clear from my bull that might be out there.

But I do hope to hear from Montana ranchers as we work on crafting our state's and potentially other states' responses in these GIPSA comments. And if a small packer has real concerns, we need to hear that. And if the producers -- if there's something to this notion the producers get injured by these rules or that more consolidation could occur, we need to hear that also. And the extended comment period actually provides that opportunity to get that clarity.

Because if we return to those shared values that -- of the ranch being able to be passed onto the next generation, I hope that we can at least agree that the status quo ain't working and doing nothing is no longer an option. I think we need meaningful enforcement of laws that were set up a century ago to make sure that folks get a fair shake. And in the meantime, it's also important to recognize Montana producers have been innovative. You've been employing technology by working together, by even expanding niche and value-added beef markets. As we work to promote transparency and competitiveness in the market, as regulators, we must not make -- we must make sure not to stifle those innovations.

Lately, and in closing, I guess I've been saying that solutions to the competition issues that we face can be found in bullwhips, BlackBerries, and some degree of bureaucracy. What I mean to say is this: If we, as a nation, truly value a vibrant ag sector to our economy, we need to draw on the strengths and expertise of beyond the ground producers. We need to draw on cutting-edge technology and ranch innovations and common-sense government enforcement regulation. Each is indispensable.

There are core values each of us share. Republicans or Democrats, liberal or conservative, stock growers or cattlemen, R-CALF or NCBA. I've never, never ever heard a rancher say they didn't want their children to have a viable operation to continue the family business if they so choose. So if nothing else, I hope that as we go forward, ensuring that family farming ranching is viable for today and tomorrow's producers should be that shared focal point as we move forward. Thanks so much.

SECRETARY VILSACK: Thanks, General.

Commissioner?

MR. STULP: Mr. Secretary and Mr. Attorney General, thank you very much for coming to Colorado. This is a very appropriate place to conduct this sort of a hearing, here at Colorado State University, well-known for their land-grant contribution to the livestock industry and innovators in so many areas.

As I look across this audience, I recognize a number of friends and neighbors. I recognize leadership from the Colorado livestock industry. And you're going to be hearing from them later today. And I think it's important to point out they're well-respected in their particular areas of interest and passion.

We are home in Colorado to some of the largest livestock operations, some of the largest packing operations, in the world. At the same time, we have some of the smallest operations that are using the Internet and other marketing tools to their advantage. And we're seeing a great interest in our farmers markets and our direct marketing from the farm to the table in the different homes. And so we have a greet diversity of interests here in Colorado. You're going to hear a lot of that diversity and legitimate differences of opinion today.

And so, once again, thank you for coming to Colorado. I think you'll hear great testimony today.

SECRETARY VILSACK: Commissioner, thank you very much.

We're going to have about a half an hour for a few questions. And so, General, I'm going to start off with you, if I can. I think it would be helpful for the audience to have a basic understanding of how you see and how you oversee the role of the Department of Justice in responding to concerns that folks may express about transparency, about competition and concentration.

GENERAL HOLDER: Okay. I think that's actually a very good question. Unlike the Department of Agriculture, the justice department is not an agricultural regulator. That's not what we do as our primary function. We have a more narrow but, I think, important role. And that is that we enforce the antitrust laws and we are a voice for competition advocacy. We are trying to make sure that things are done in a -- in a fair way.

The antitrust laws prohibit conduct that stifle competition. That's what we focus on. We want to make sure that competition is not stifled. That's what Christine lives and breathes. We want to take aggressive action against conduct that violates those antitrust laws.

We think that this will result in better prices for producers that are selling their livestock and also for consumers at the retail level; at their grocery shelf.

Our enforcement efforts include a variety of things. We challenge mergers. I think I talked about this 2008 challenge that we made to JBS's proposed acquisition of National Beef Packing Company. We thought that acquisition would have lessened the competition among packers for the purchase of fed cattle and in the production and the sale of USDA-graded box beef. Again, something that we thought would have stifled competition, so we intervened.

There are instances -- rare instances where the justice department will bring criminal enforcement actions. These are not as -- not as common. For example, we have brought criminal cases against Archer Daniels Midland for fixing the prices of livestock and poultry feed additive and against Hoffman-Laroche for fixing the price of vitamins used as animal feed additives. Again, that's not something that is as common. That's what we do on the civil side. But I think is a reflection of the tools that the justice department has and is willing to use where it is appropriate.

The antitrust laws are not a cure-all for the problems that face ranchers and farmers. We don't hold ourselves out in that way. But we think that in conjunction with other laws and other regulations that are more specifically designed to protect those rights of individual farmers and advance their interest, that in combination with those other laws and working with our partners at the Department of Agriculture, that we can be very effective. We can be most effective in protecting those rights.

The Department, at base, acts as an advocate for fair competition. I think, as somebody said, we don't view big as necessarily bad. That is not our view. From our perspective, fairness is the key to make sure that there is a level playing field for competitors, whatever their size. We want to try to encourage more competition and transparency in the agricultural sector. And so that is a general way in which I think the Department of Justice sees its role in this very important sector, a sector that's important not only for our exports and our economy, but also for the American way of life.

Now, I'm unlike everybody else, it seems. I was born and raised in New York City. And don't hold that against me. But there is a reality to the fact that from the earliest parts of this nation, a vital agricultural sector and the values that are associated with it have defined this nation and have really made this nation different from so many others. And even as a New York City guy, I get that and understand that and like to think that in my time at the Department of Justice with my partner, Christine Varney, that we will do our part to ensure that that part of our nation, that part of our culture remains viable.

SECRETARY VILSACK: General, you mentioned the issue of competitiveness. And I want to turn to you, Congressman (sic) Markey -- Congresswoman Markey, to talk a little bit about this. You're out there, you're campaigning, you're listening to folks. What are the farmers and ranchers that you're meeting telling you about the competitiveness and the openness and the transparency of the market? What are you hearing about access to markets?

MS. MARKEY: Well, I think one of the things that we're hearing is uncertainty with the proposed GIPSA with, you know, how far will it go in making sure that it's going to benefit both consumers and producers and that concern that any future government intervention maintains the competitiveness in this marketplace and that it's not a future haven for attorneys and potential lawsuits. So again, I greatly appreciate the fact that we need to move slower on this, that we extend the comment period to make sure that what we're doing is right.

But it's -- as you know, it's a complicated issue. It's a diverse issue with some groups feeling that -- again, that the laws haven't been -- there are existing laws that we should keep and that should be strengthened and enforced and others that say that, you know, the current laws are adequate and that structural changes are just an outgrowth of what's going on currently in the marketplace. But I think, in the end, producers want to make sure as well that they are getting a fair price for their product and that individual farmers, ranchers, are making sure that they can keep their competitive advantage in the marketplace.

So again, it's a delicate issue of balancing how much enforcement should take place and, again, what's the proper role of government.

SECRETARY VILSACK: Governor Ritter, I want to ask you a question. You actually come to this from a number of directions. You mentioned your early experience living on a farm. You've been a prosecutor and now a governor. I'm interested in your thoughts in terms of what you believe we need to be looking at, in your view, to make sure that those livestock producers, regardless of size, are able to actually have a level of independence over their operations and actually be able to continue the value system that you talked so eloquently about.

GOVERNOR RITTER: Well, I do think that the market, at the end of the day, is going to dictate that. So much of what we've heard about with consolidation has to do with the market economy that just doesn't support small producers remaining in business.

If you look at our 20-year history of agriculture generally -- this is farming and ranching -- I said it was the third biggest industry, but it survives at the thinnest margin; so a 20-year history, it's 2 to 3 percent profit margins over that time if you average it out. You know this. You go through losses and there's some really good years and then some tough years. That's commodity marketing. But anticompetition or anticompetitive practices within the market economy absolutely could harm them. You all know that. And that's why I think the Department of Justice is here and is intent upon looking at the impact of that.

We want a good price for the consumer. We want, you know, meat and pork to be placed on the plate at the home in a way that is affordable. And yet, at the same time, we want to make sure that we're doing all we can to regulate the market; not too much regulation -- not to heavy a regulation, but regulate it so you take out the competitive practices.

What I would say is one of the focus -- one of the things we must focus on -- I think this is as a country -- is the ability to expand the access to export markets. And that's, I think, a reality that we should, as a country, focus on. Because consumption in the United States is likely to dwindle over time as a percentage of -- you know, of all food consumed, beef and pork are likely to dwindle. But you look at emerging economies around the world -- China, India, places like that -- there's actually greater beef consumption that's happening in those places.

And for, you know, a variety of reasons, we can take advantage of those expanding markets and then, in a sense and maybe an indirect way, help that small producer. But I -- I do think -- you know, it's a difficult -- it's a difficult place. Because we value the family farm, we value the family ranch, and yet there's a lot about that that's made it more and more difficult. People are staying in there sometimes at a financial loss to them as a family just because they believe in it.

And so it won't all be done by regulation. It won't all be done by trying to do what you can to take out anticompetitive practices in those parts of the industry that are heavily consolidated. But it can help. It can help. And I don't think the margin has to get a whole lot better than 2 or 3 percent to be able to reverse the trends that we've seen in the consolidation and the lessening of family farming. So I think the number one thing is expanding access to markets.

And finally, I'd say this issue about ensuring the regulations allow for direct marketing and in a way allowing the rancher to directly market to the consumer and take, in some respects, some of the retail middleman out of that, so not have -- don't regulate it so heavily that it's impossible for that, that's a great benefit. That's a great benefit to a variety of the small producers that John Stulp referred to, particularly the niche producers that have something that they can offer that really distinguishes them but may get lost if they go through the entire sort of -- if they have to go through the entire process from wholesale to retail, there's a lot they can get lost in. Thank you.

SECRETARY VILSACK: Well, I can't help but comment about exports. This will be the second-best year in exports in ag in history since we've been keeping records. We anticipate about $105 billion of ag exports led, in part, by the livestock industry. And we'll have about a $28 billion surplus, which is one of the few places in our economy that actually has a trade surplus.

And every billion dollars of ag trade also generates somewhere between 8 and 9,000 jobs. I see a lot of folks from the UFCW here today who are working in those processing facilities. And that means employment opportunities as well; so you're absolutely correct. And we are focused on increasing exports. The president has charged us with, as economy and as an administration, doubling exports over the course of the next several years.

But I wanted to direct this next question to the two state attorney generals who are here. You-all have offices that obviously receive phone calls and complaints and letters. I'm interested in knowing whether or not you've seen an increase or -- of concerns as the economy tightens and as farm families have difficulty. And if so, what may be causing that and what protections can you provide at the state level to compliment what can be done at the federal level?

MR. SUTHERS: Well, like the United States Department of Justice, the Colorado Department of Law is not an agricultural regulator, per se. Our jurisdiction comes from the antitrust laws of Colorado and also the deceptive trade practice laws of Colorado. And I have to tell you that over the last several years, virtually all the concerns that have been expressed to our office about the agricultural industry in Colorado and throughout the United States have revolved around consolidation.

Particularly, in the last several years, there's been a lot of concern expressed to our office by agricultural interests in Colorado about consolidation among packers. And it was our analysis of their concerns and discussions with the United States Department of Justice that caused us to join with 12 other cattle-producing states and the United States Department of Justice to oppose the merger of JBS Swift and National Beef.

Just to be very precise about what our analysis of -- of its impact on the marketplace, in the High Plains geographic market -- the beef belt, we call it; Colorado, Western Iowa, Kansas, Nebraska, Oklahoma, and Texas -- we believe that that merger would have put over 85 percent of packer capacity in the hands of the three survivors: JBS, Tyson, and Cargill. And I think every -- the cattle-producing states and DOJ jointly concluded that this would have significant anticompetitive effects at both ends of the chain.

Such consolidation would force producers, ranchers, and feedlots to set cattle for lower prices and, of course, wouldn't necessarily pass along those savings to consumers. We believe that that sort of consolidation allows firms to charge higher prices to grocers and food-service companies. So not only the producer is impacted, but the grocery store consumer is also impacted.

At the state level, we can use our existing laws to protect livestock producers from anticompetitive behavior and we'll certainly continue to very carefully monitor that. We have the Colorado Antitrust Act of 1992 that forbids monopolization and attempts to monopolize bid rigging and mergers that lessen competition. However, I want to make sure that folks in Colorado here understand a very important aspect of our Colorado antitrust law. Our office cannot challenge any merger or acquisition that has been reviewed by any federal agency under Section 7(a) of the Clayton Act where the federal agency declined to challenge the merger. That was put into Colorado law in 1992.

What that indicates to us is that there's a significant premium on communication between the state and federal governments. And we make sure that we convey to you fully the input we have from our agricultural community about concerns about consolidation and things like that. Because the bottom line is if you decline to intervene, we're precluded from intervening. So it's very, very important that we communicate along those lines.

We're aware of all the issues surrounding the GIPSA proposed rules. The bottom line, it seems to me, is that what we all have to be working for is to level the playing field without over-regulating in a way that disrupts the marketplace. And that's a balancing act, and we're going to very carefully monitor the conversations today and all that takes place to hope that we can assist in our comments to the Department of Agriculture and the Department of Justice in reaching that balance where we have a more level playing field and don't interfere with the marketplace by too much regulation.

MR. BULLOCK: The same is largely true -- one of the nice things about AGs -- Attorney General Suthers and I -- is that we're a lot closer to the grounds. We hears these concerns in our churches, in our grocery stores, when we're picking up our kids from school.

Interestingly, though -- and we both do a lot of work on consumer protection issues -- if farmers and ranchers were like senior citizens, we'd be a lot better off inasmuch as that when they have concerns, they'll be calling us. Farmers and ranchers, I think, are so used to kind of going it on their own, that they're not necessarily picking up their phone to some government guy in the capital city. I think, though, that there is a lot that can be done. General Suthers alluded to -- actually, both of them did -- the calling off of JBS Swift. I mean, that wasn't a change of heart. That was when USDOJ and 16 states came together.

Another thing that really heartens me, I guess, is that we've seen a lot more in a lot of areas, the federal government -- and under your leadership, General Holder -- working together with the states, realizing that we're equal partners in a lot of this. And that crosses from financial crimes to straight crime to fraud. I'm working a lot closer with my U.S. attorney than any of my predecessors ever did.

This is an area, especially for our ag states, where we have to maintain that same sort of state and federal cooperation. Because we will hear about what's going on in Washington. They'll look to us. And the more that we can work together, I think, the more apt -- I mean, it is a real exciting time. Now we just have to make sure that we channel that excitement in constructive ways for the ag community.

SECRETARY VILSACK: Commissioner, I want to talk to you for just a second. I -- you know, speaking of people that are sort of on the ground level on all this, I come from a state that is fairly significant in hog production. And I know that when I was governor, I would hear frequently concerns about how open the market really was when spot market prices were basically so limited and -- but they had such a great impact on what contracts would generate.

I'm interested to know whether or not you see the same kind of activity going on or the same kind of trend going on in the cattle industry in your state or what your thoughts are about the spot market. How do we make sure that there's sufficient integrity as the amount of that spot market shrinks?

MR. STULP: Mr. Secretary, as I mentioned earlier, as I visit with a broad spectrum of agriculture producers in this state, I hear a number of somewhat conflicting issues from time to time. I've always heard that if you get three farmers in a coffee shop, you'll get four or five opinions sometimes.

You know, as we look -- I'm a wheat farmer and a cow-calf producer. As I look back over the years, I've had an opportunity to market my calves right off the cows. I can market them as I precondition them. I can take them onto yearlings. I can -- I have the opportunity to finish them in our own lot, which I rarely do because it's more efficient to go to commercial lots in the area. And then I can partner with them or I can retain ownership and market them eventually as fat animals. So I've been involved in all aspects of it.

And that -- it's important that we have as many opportunities for marketing at whatever point in the life cycle of livestock that these producers want to take advantage of the market. We all have our opinions on when we can do the best profitably, so it's important to have some transparency so we know what our options are. And if we don't know we have an option with a packer or with a retailer, it limits the opportunities that people have.

And we've seen this change -- and we mentioned earlier -- of people starting to go it alone in -- sometimes in the form of a co-op or marketing their own animals. We have several people in the western slope that contract their beef production through the Internet. And they've retained a brand-it with their own name. They go through a USDA-approved slaughter plant and -- but they retain ownership. They retain their identity. And I'm not sure that everybody can do that. But that's an opportunity that's important.

And as the governor and others have mentioned, that opportunity is driven by other markets if there's competition in the markets. And we see, as you mentioned, the export market as being very important to the meat market. Colorado ranks in the top three or four, depending on what type of meat we're exporting.

When the governor went to Japan a couple of years ago, we found out that the number-one product from Colorado to Japan was beef; about 24 percent of what they buy from our state alone. And so it's very important that we expand the global markets. China alone -- we're not allowed to go in there at this point. But with the 1.3 billion people, if they just ate an ounce a day, we'd really have a market that we couldn't satisfy.

We have other political barriers out there, and we appreciate what this administration has been doing with the export initiative, what USDA has been trying to do with the ag trade offices. But as we open up global markets, I think it also opens up domestic markets too. And it -- hopefully it raises the overall value of beef and meat products to the producers at whatever level they decide to market. Because we can't all market into the same market and get a good profit.

SECRETARY VILSACK: Christine, I want to ask you just a real quick question just to give people a sense of what the process is in your office. You know, as you hear about information that comes to your office that might suggest that there's a competitive issue -- what's the analysis, what happens, how does it get handled -- so folks have a sense of the factors you consider.

MS. VARNEY: Sure. Well, on a merger, I think the first thing we do is we call the state AGs' offices. Because they have the expertise on the ground and we loop them in depending on where the merger is taking place.

And a good example that everybody referred to was JBS.

You know, Secretary, we're -- we have targeted tools in the antitrust division. So we have the Sherman Act and we have the Clayton Act which proscribed what we can do when there is a merger that substantially lessens competition. So we look at consolidation and we try to determine what's the -- what's the consequence of the proposed consolidation on the competitive marketplace. We have absolutely committed to a robust enforcement of the antitrust laws.

So when we see a proposed merger that we believe will meet the criteria established by the courts and the law that it will substantially lessen competition, we will challenge the merger. It takes awhile. It's a very fact-specific undertaking. We have to get a lot of testimony. We have to do a lot of economic analysis.

You know, the Department of Justice employs, I think, the second- or third-largest number of economists in the United States government, and they're in the antitrust division. We have a very strong ag economic section where we go through a lot of the activity in the sector. We consult very closely with the USDA whenever we see a merger, whether it be in livestock, poultry, grain; across the board.

We then -- we have to go to court. We can't block a merger on our own. A judge has to agree with us. Now, in the past -- when we see a merger that we believe is anticompetitive, many times the parties will simply abandon the merger; they won't go forward. Other times, we have to go to court and litigate. And we put on a hell of a case. And, you know, judges don't always agree with us. But we'll go to the mats and we'll go the mats with our partners in the states to try to prevent anticompetitive mergers.

That being said, there are mergers that provide a lot of efficiency, that increase competition in the marketplace. And we try to distinguish carefully those mergers that are procompetitive and move quickly to clear those mergers through. Our doors are open. Our phones are open. I think everybody at both the USDA and the state AGs know how to get ahold of us.

When there is a merger, we want to hear your views. Our friends from the unions come in often to tell us how they see the merger impacting what they're doing. Your trade associations are always there. Every time there's a merger in an industry, I hear from the trade associations. The challenge there is there's often a diversity of opinion within the associations as to how a merger might impact its members.

So we try to sort through all the information we get to get to the facts and then make a decision accordingly.

SECRETARY VILSACK: We have a few more minutes. And, you know, I was struck by Attorney General Bullock's comment about if farmers were more like senior citizens. The reality is that they're getting very close to that.

And that raises, I think, a fundamental question that I think is important to every single person in this audience, regardless of where they come out on competition or GIPSA rules or anything of that sort. And that is: How is it that we're going to get young people into this business and keep young people in this business? We cannot continue to see the trends that we've seen in the aging population within our farm families. You cannot have the percentage increase in farmers over 75 and a decrease of farmers under 25.

So what I'd like to do is just very quickly go right down the -- right down the line. Commissioner, I'm going to start with you and just simply ask you, you know, what do we have to do? Are you satisfied that the current market structures and systems and trends will allow young people to get into this business? And if not, what's one suggestion that you would give to us as to how we might be able to improve opportunities for young people?

MR. STULP: As you mentioned, the statistics don't bear out that young people are returning. And to attract young people back, you have to have a variety of things. You have to have the opportunity of profitability, is the number one thing, in order to attract young people back.

We also need the infrastructure of communities that have viable hospitals and good education opportunities for our young people, whether it's community colleges or -- or just a local high school is important. So I think profitability, it starts there. And that crosses all the spectrums of commodities, especially the beef industry because it's predominant in the High Plains area.

SECRETARY VILSACK: General?

MR. SUTHERS: It has to be a viable economic undertaking for the families involved, and the children have to have the assurance that they can make a living -- an adequate living in this agricultural community living.

Mr. Secretary, you can -- we, in Colorado -- water is at a huge premium. And it's very sad. And I'm sure there's farmers and ranchers in this audience here today who are facing the dilemma -- as much as they want to stay on the land -- have their families stay on the land, the realities of agriculture are such that their water is the most valuable commodity they have. And the temptation to sell that water for municipal use and take land out of agricultural production is tremendous.

And Colorado, like many other western states, tries to present all kinds of incentives, whether it be conservation easements or whatever, to allow that to continue to happen. But at the bottom line, it's all driven by economics. And you can't blame a 65-year-old ranchers whose water rights are so valuable being tempted to sell those water rights to -- for municipal use. And it's incumbent upon us to do everything we can to make sure this agriculture business is structured in a way that it's economic to stay on the land, to produce the food we need on that land and reduce the incentive to simply cash out and sell the water and take the land out of agriculture.

MS. MARKEY: Thank you. You know, I, of course, echo the -- you know, the basic factor that it's got to be profitable for young farmers. And I talk to so many families where the son and daughter -- you know, they want to stay on the land, they love the rural lifestyle, want to be married, raise their family; but just not sure if they'll be able to eke out a living.

And, you know, you hear from so many farmers say that behind every successful farmer is a teacher or a nurse or, quite frankly, somebody else who has a part-time job so that they can make ends meet. So certainly, a system where it's -- we know that that farmer's going to be profitable and be able to have a living for their family and be able to raise their children in an area that has good schools, has access to hospitals with the latest technologies, banks, other small businesses in the area.

One of the things that I'm very happy that we have done with the recovery act is really focus resources on -- which we did after the Great Depression -- we made sure that rural communities had electricity. Right now, the next big investment in our rural communities is broadband. You know, for any community to survive, a community has to have access to the high-speed Internet for your hospitals, for -- you know, a child really growing up now needs to be -- needs to have access to the Internet.

So all of these things that we need to have, the -- the infrastructure in place so that our farmers and our ranchers can raise their families with the same advantages that their -- that families have in more urban communities is going to be critical. Thank you.

SECRETARY VILSACK: I'm going to skip the general to go -- give him the last word. So, Christine, do you have any thoughts about this?

MS. VARNEY: As I said, Secretary, I'm here to listen. I mean, the recurring theme that we've heard in all of our workshops is the system is broken. Family farms are not sustainable. They're not able to pass farms down to their children. There's got to be a variety of solutions. Not all of them are going to reside in Antitrust, in the Department of Justice, or in the Department of Agricultural.

So I think what we're doing here is gathering information. We're taking that information back to Washington, back to our state capitals, to try and figure out what a comprehensive solution is going to look like.

GOVERNOR RITTER: Thank you, Mr. Secretary, again for coming. Thank you, General Holder. And I would just pick up on a couple of the comments to say we've focused on the agricultural economy and ranching. It's important to look at ranching and farming and the different things that need to be done from a regulatory perspective to allow family farms and ranches to stay in business.

But this other part of it, I think, shouldn't be missed, which is the health of rural America is at risk. It's not just ranching as an industry. And I should -- I would congratulate you, Mr. Secretary, on what you've done on rural broadband. I really think this is an important part of it. As we expand markets, as we look at global markets and say, We want to access those -- also allowing ranches and farms to have greater access to technology -- it's going to happen because of rural broadband initiatives like your initiatives. And that will, over time, make a difference.

We have a main-street initiative that we've started in Colorado. And it really is about going to very small places -- Fowler, Colorado; Monte Vista, Colorado; Rifle -- these are all communities where we're looking and saying, What's the health -- what's the vibrancy of this community, how we support it.

So while this is important -- this part of the conversation and looking at competitiveness, consolidation, and how you have as much freedom in the marketplace for smaller producers, it's also important to look at health, look at education, look at technology; all those ways to keep kids coming back to the family farm because they understand there is this future. And it's not just about profitability; it's also just about, I think, the quality of life in rural America.

So thank you for the opportunity to make these comments.

MR. BULLOCK: I think that ranch that I mentioned that I was at this past weekend where my mother-in-law was raised -- the town of Geyser has changed substantially in the last 30 years. And all across throughout rural Montana, we're losing our schools, we're losing our banks. You know, things are getting smaller and smaller in some respects. If you look at that over the last 30 years too, the piece of the pie that -- the rancher's share of the dollar has been substantially decreasing all along at the same time.

So I don't think to actually make it possible for young folks to stay on the ranch or go to the ranch, it's not going to change tomorrow. You're not going to say all of a sudden, Tomorrow, life is going to be good, you'll have your vibrant community back. But what you need to do is offer some sort of promise or hope that that trend will reverse; that the rancher's share of the food dollar will actually start going back where it was 20, 30 years go.

And then there's the opportunity to say, Okay, I'm a young person; I'll take the risk because I like this lifestyle; I like what it produces for our country and for our state. But there has to be -- I mean, we have to reverse that trend or -- if not, you sure can't blame them for wanting to get off the ranch.

SECRETARY VILSACK: General?

ATTORNEY GENERAL HOLDER: You know, I think in some ways we have to return to old values and we have to value what is done on our farms. We have to support in ways that we can and ways that we have discussed people who want to remain on farms, who want to pass on to their children the opportunity to do that. There's an attitudinal thing, I think, as much as everything else we have discussed. We have value what happens on our farms in a way that I don't think we have in the recent past.

This nation became great because we made things. We manufactured things. We grew things. We produced things. We raised livestock. That is, I think, in essence, what has defined this country and made this country great. Everybody can't be on Wall Street with these complex financial instruments. You know, that's the kind of thing we focus a lot of our attention on and think is so great. And we have not focused on, I think, the core things that really is at the foundation of what has made this nation the leader in the world that it is.

This is the 21st Century, and yet I think we have to go back and think about attitudinally and what we value, some of the things from the 18th Century and what -- what really distinguished America and then what made this country great. And so I think it's important for us in government never to lose sight of that, to stay in touch -- as I hope we are today in this exchange -- to stay in touch with the real problems of real people and come up with real-world solutions for those issues.

But I really do think it is a question of remembering, remembering why did this country become great? It wasn't an accident. It was because we made conscious decisions to do things that supported people, young people, in the decisions that they made to do a variety of things. And we can't concentrate our efforts -- concentrate what we value on things that we find in New York City only.

You know, there's a great big country out here, a great diversity in our country that we have to continue to value. And that's what I believe this administration is committed to doing. It is what we want to work with all of you on to make happen.

SECRETARY VILSACK: Okay. We're going to -- thank you. In an effort to keep us somewhat on schedule, we're going to take a quick break. We're going to come back with a panel of folks who represent this rural America that has been talked about today. We'll be back in about 20 minutes.

(A recess was taken from 9:56 a.m. until 10:36 a.m.)

SECRETARY VILSACK: Could I have your attention? We're going to start with the producer presentation panel. Before we do, I've been joined by Phil Weiser, who is a deputy assistant attorney general for the U.S. Department of Justice. And Phil will be helping me moderate this producer presentation. I'm going to introduce the producers, starting with folks to my extreme left and go right down the line before they -- before we begin the presentations. And hopefully, I don't mispronounce anyone's name. If I do, I apologize in advance.

Let me start with Mike. Mike's not here, so -- this has been -- Alden Zuhlke. Alden Zuhlke is from Brunswick, Nebraska. Alden and his family have been raising hogs, corn, and soybeans for the past 35 years. He's a past Nebraska Pork Board president, a member of the Nebraska Environmental Quality Council. He has been serving on the school board in Plainview, Nebraska, for 12 years; in the last four, served as president. Alden, thank you very much for being here today.

Sitting next to Alden is Allan Sents. Allan and his wife own a 10,000-head capacity commercial cattle feedyard in Central Kansas. Allan has been around the feedyard over 40 years and involved in ownership in the last 29 years. He is the director of the United States Cattlemen's Association, a past president of Kansas Cattlemen's Association, and a member of the Organization for Competitive Markets. Allan, thank you for being here today.

Next to Allan is someone I know fairly well. Chris Petersen is from my home state; family farmer since 1974 near Clear Lake, Iowa, and -- consisting of commodity crops, hay; and is an independent hog producer raising sustainable Berkshire hogs and direct marketing to consumers in the Berkshire Gold program. He's the current president of Iowa Farmers Union, board member of the Iowa's center for agricultural health and safety board, Iowa Citizen Action Network, along with other boards and groups in Iowa National. Chris, thank you for being with us here today.

Sitting next to Phil is Harry "Butch" Livermore -- Livermont, excuse me, who is an Oglala Sioux tribal member; ranch and farms with his family on the Pine Ridge Reservation in South Dakota. Butch is the chairman of the tribe's livestock and Landowners Association on the reservation. He's the director of the local rural electric association, as well as the representative on the state REA board of directors. Butch, thank you for being here.

Robbie LeValley, is that -- did I pronounce that correctly? Robbie is a cow-calf producer from Hotchkiss, Colorado; has been a cattle producer all of her life. Her family and five other ranching families cooperatively own Homestead Meats, which sells meat directly to consumers, retailers, and restaurants. In addition, the six families own a USDA-inspected packing plant where they market their own animals and custom process for numerous other consumers in West Central Colorado.

Sitting next to Robbie is Dr. Taylor Haynes, who is a cattle rancher from Cheyenne, Wyoming. Dr. Haynes is involved in multiple beef-marketing efforts, both conventional as well as all-natural and organic grass-fed beef. I'd also like to point out that Dr. Haynes is a urologist. So if anybody needs a quick checkup later -- you know, in these serious conversations, you've got to break them up every once in a while for levity. He's a founding -- we're going to have some fun on this panel.

He's a founding board member and president of the Independent Cattlemen of Wyoming, is a member of the board of directors of R-CALF USA, and, as such, is the regional director for Wyoming, Utah, and Colorado. Dr. Haynes is a lifetime member of the Wyoming Stock Growers. He also was inducted into the Multicultural Western Heritage Hall of Fame in Fort Worth, Texas, in August of 2007.

And our last presenter is Mike Harper. Mike is currently a part-owner of Harper Feedlot, LLC; has been engaged in the operation since the 1970s. Harper Feedlot offers custom feeding options to many producers and customers in many states across the Western United States. The feed-lot operation handles over 200,000 lambs per year with a one-time lot capacity of 65,000 head. He is currently the president of Colorado Wool Growers Association and is serving on the American Lamb Council.

So that represents the panel that will be discussing for the next hour-plus a variety of issues. So let me start -- if I can, Alden, I'm going to start with you, and I'd just simply ask everybody down the line the way in which you were introduced. Let me just ask a very brief question of all of you to just sort of open this up.

Over the years, as I have traveled around the country, I have heard that there is increasing concern that there are, essentially, fewer buyers to do business with and that some are saying that producers or feeders have a hard time getting bids or contracts for their livestock. Is that consistent with what you have experienced and heard? And if so, what are your thoughts about that?

MR. ZUHLKE: Well, it's obviously changed in the last 30-some years.

I said it's changed quite a bit in the last 30 years. And then I've thought about trying to break it down in 10-year periods or something. But, I mean, obviously, as economies have changed, we've had bigger numbers and we've hauled in bigger numbers. I mean, if you go back into this -- when we first started selling, everything went to the auction barns. And then I remember as a little boy, we -- Dad said, Well, we'll save some money; we'll load the truck and the guy will haul them to Omaha and we'll get -- capture a little more dollars there.

And then eventually, the packers or -- you know, they decided, you know, We'll put some buying stations in. So then as the industry -- we hauled them all to the buying stations for a while. But the trend has been, you say, future -- or less people buying. But the number of people selling is what drastically went down. Some of the local hog buyers, when they started 25 years ago, had probably 400 people they called on. And now it's consolidated down to -- some of them, maybe 10 to 12 of us.

Now, the catch in there is I market for a lot of individual people that are still in the hog business. So the number of people that we deal with is less, but I personally deal with three different packers.

SECRETARY VILSACK: Okay. Allan?

MR. SENTS: When we acquired the feedlot business almost 30 years ago, we had five different packers that would routinely participate in the market each week. Currently, we have three, really two of which are active participants. We were impacted a couple of years ago by the closing of the Emporia plant by Tyson. Essentially, they still visit us on a weekly basis but essentially took them out of the active market in terms of competing for our cattle very effectively.

One of the biggest challenges we have on a weekly basis is to try to determine what kind of space we'll have with those other two main packers that we deal with. And from week to week, it's very common for us to hear that they've already secured all but one or two days of the next week's supply. When we hear that, it's kind of putting us on notice that we'd better be quick to act. We certainly are more defensive in our stance in terms of trying to sell cattle when we get that kind of information and know that the trading window, as short as it is, will likely pass us by in those weeks if we're not careful.

Now, recently we've had an uptrend in market and we've had good interest in participation. But there will be times, especially when there's a little pressure on the market when the numbers swell some, that we get most concerned about having access to the market. So that's one of our biggest concerns on a weekly basis. Will we have access to space the next week to move our cattle?

SECRETARY VILSACK: Chris?

MR. PETERSEN: Good morning, everybody. Yeah. This is quite the interesting question. When I started farming in the '70s, I actually got established by raising and selling feeder pigs; a quick turnover of profits. And I tell you what, Iowa has tens of thousands of independent hog producers. There's good demand for well-raised feeder pigs. And so that market has been ruined now. It basically no longer exists.

But in the butcher market in the '70s and '80s, you had multiple buyers. Out in the countryside, you had them calling you on days they needed hogs. And I remember times when I was planting corn or whatever and, my gosh, I don't want to really sell hogs today, you know. But then the packers start calling, and you play them against each other. And lo and behold, there comes a time when you shut the planter off and you make an extra $5 or $10 a hog. You load up a load of hogs. And I tell you what, one thing we've been trying to do for years that I stand for, if we want to start to solve this problem, ban the packers from owning livestock, period.

Supply and demand actually work. Capitalism is alive and well. Yield premiums -- when I first started selling butcher hogs through the '80s and early '90s, premiums paid good. You didn't have to haul them far. That's disappeared now with the concentration and the packers. The premiums are basically gone. And localized facilities and packers no longer exist. You know, you've got to pay the freight, if you're an independent, to get these hogs to where they're going to be killed. It's not about the farmers anymore; it's about somebody else making a whole bunch of money.

And it -- progress, too. In the '90s, where I had to hire a marketing firm to guarantee me shackle space to get my hogs killed. At 3,000 head of hogs sold commercially a year, I was considered one of the little guys. And then the ascent of hogs hit and tens of thousands of producers were washed out of Iowa. And I say today that risk -- is there too much risk for an independent producer to stay in business or a beginning farmer to risk if the bank will even loan for it, to be an independent producer?

Now, I don't care if you're talking hogs, cattle or whatever. The bank's attorneys are questioning giving money for independent producers because the markets have been ruined. Thank you.

SECRETARY VILSACK: Harry? Butch?

MR. LIVERMONT: Morning, everybody. We, in Western South Dakota, we take quite a few of our calves off the cows and sell them, and then we background a few and -- and then take them -- take them in. We sell ours in Philip, South Dakota. And we don't seem to have a lot of trouble getting rid of our calves in that country. It seems like a lot of people from all over come and look for them. But we do have problems with cow buyers.

I'm thinking we'd probably get two buyers in Philip to come and buy cows. I've talked to several of my friends there in Philip and try to talk them into -- being as they're around there all the time -- to maybe get into the cow-buying deal. And they said there ain't no way to get -- there ain't no way to get into it because it's -- it's pretty well taken care of by one or two people that buy for several different places. And that's how it is.

But -- and the calves seem to be -- going to be worth a little more this fall, but still not sure whether it's going to be enough to pay the expenses. But we just keep plugging in there and just hope we can figure out how to make it work. That's all I've got. Thank you.

SECRETARY VILSACK: Robbie, what about your experiences with your co-op?

MS. LeVALLEY: In our business where we market direct to the consumer through Homestead Meats, approximately one-third of each of the calves that are produced by the six ranching families go through the Homestead Meats, the direct-marketing business. Two-thirds of them go directly to feedlots and -- and different feedlots in Colorado and Nebraska.

As I visited with the individuals that buy our calves from these six ranching families, I was told that on the average, the majority of the time there's three to four bids on these fed cattle. If we just concentrate on our Homestead Meats again, we entered into this to take advantage of our premium cattle to sell direct to the consumer and again, take advantage of the genetic improvement that we have done across all of our herds for not only selling direct to the consumer, but the improved genetics to sell to the feedlots.

SECRETARY VILSACK: Okay.

DR. HAYNES: We're a calf-cow producer as well; certified organic grass fed. We got into the niche because of a squeeze on the commodities side. The niche handles our yearling cattle.

We both direct market and we also deal with the major wholesale purveyors. And we've seen a tremendous contraction when Whole Foods Markets was allowed to buy Wild Oats. And this contraction has given them such power that they will walk on the contract on the day you're supposed to deliver the cattle. So they walk on you, the feeder, or whatever. And by the time you figure, Well, we can enforce the contract, you've spent more than the margin you were going to make, so you go somewhere else.

On the commodities side, from my weighed cattle and my other products, we've seen a tremendous loss of buyers. Some of you that maybe flew into Denver and drove up here can see the result of that. There's a lot of little family feedlots; a few along I-25 that you can see. Well, they're empty. Well, if you got off the freeway, you could find between here and the next major freeway and the next major highway, maybe you could see 30, 50, 75, depending on which way you went. They're all empty too. And it's consolidation and loss of access to the wholesale market that has driven them out of business.

We also have another issue, and that's access to the retail market. There's not a USDA-inspected plant in Wyoming. And I've had several people try. I have no idea why. But that's an issue that should be addressed. So to give us access to the market, to decentralize meat packing is a real key. We need to do that. There's several ways to do it.

One, the house approval, actually, has killed small packers. You've got the fox watching the henhouse, and it's paper chase. We need point source -- you need point source interdiction and discovery, and you need to enforce the food safety rule where the contamination occurs, which is largely on the kill floor. So this -- how to solve the consolidation problem? Well, if we can bring the small, medium-sized meat packers back then that brings the small, medium-sized family feeder back.

Then the second part of this access is retail. The major wholesalers threaten -- at least in Wyoming -- threaten supermarkets. And my organization, which -- my statewide organization in which our main goal is to increase the bottom line for our members, we put together, say, steak specials, ground beef specials, for various supermarkets, and they're happy to have that as something different to offer. Well, their major supplier will threaten the rest of their product. We won't supply your chicken, pork, et cetera, if you buy any beef from these guys. So that is an abusive practice that just simply needs to be regulated away. We can compete on the shelf side by side.

So really, access to both the retail, wholesale market, is what's killing the cattle industry. And we can bring that back. You know, we broke up Ma Bell and that took a lot of regulation. If we facilitate competition with the small meat packers, small family feedlots, market access, then I think we break them up with competition. Thank you.

SECRETARY VILSACK: Mike.

MR. HARPER: I feel pretty fortunate, I would say, if -- Colorado might be the last place we had lambs in this country. And, fortunately, we have two packers right now; one in JBS, Greeley, and one in Denver, in Superior Packing. So I have had an access to those markets pretty regularly. We have contracts with both of those entities and supply them with lambs year round.

Up until the last -- oh, I guess it's been about six months now, I have never seen so much demand for lamb. And we are extremely short in supply, and I could sell lambs all over the country. If there's somebody calling me, we'd have that opportunity. But I don't have the numbers. The worst thing we have right now is a lack of numbers. And we've got to figure out somehow to build numbers back, try to increase interest in young people.

MR. WEISER: So I want to first say, on behalf of the justice department, how glad we are to have a partner. And, Secretary Vilsack, the leadership you have given and focus on this has made this partnership possible.

Second, for those who aren't going to be able to speak publicly for any fears of intimidation, harassment, or concerns, I want to acknowledge two people. Bill Stallings, who is going to be up here shortly to listen to you folks, is the leader in our agriculture section, and Norm Familant, who is also up here, a leader -- an agriculture economist. These two individuals are here, in part, to talk to people informally. As part of the effort to gather ideas, concerns, we know it's going to happen not only by people speaking publicly but by people speaking privately. So we encourage anyone who has the interests. Myself, obviously, as well as both Bill and Norm are here for that.

With respect to questions, I want to go back to this side of the table. Because there's a theme that I saw developing about potential opportunities and constraints on those opportunities. One thing that I think Taylor mentioned which is important is the concerns about the impact of the Wild Oats/Whole Foods merger and -- on the retail side. I want to start by talking a little about the retail side here.

In particular, if you have concerns about mergers after they've happened, that's also information that's very valuable to share and feeds into this project. So any of you who have seen a merger and then felt the effects afterwards, I would encourage you to share that information as well so that there's an ability of the antitrust enforcement authorities to evaluate what happened after the fact. That can be as or more important sometimes because it enables us to do better next time and potentially even address it.

So I want to focus on that issue. Have you guys felt, on the retail side, any of the changes -- you spoke generally and -- specifically with that merger, Taylor, so I'll start with you. Can you explain just a little bit about -- a little more detail about exactly how you see that? Is it merely on this -- you know, they will walk away from contracts, or does it go further than that as well?

DR. HAYNES: It goes further that than -- it goes farther than that in our area because Whole Foods was -- is a major purveyor and so they're also a major buyer. And what they've gone to is they buy a little local and then they import quite a lot from Uruguay. So we're seeing that a great deal.

The other issue in Wyoming, without a USDA-inspected plant, then, obviously, I can't have a USDA organic plant, so I have to transport to Colorado to process my product. And then it could be 500 miles to western Wyoming or somewhere else in Wyoming to sell that product. So what we're seeing with retail is obviously shelf space for the walk-in trade but also access to packing at a reasonable price so that we can manage our niche and stay in the black. It's quite a trick.

So I think mergers have to be considered very, very carefully up front. And we all protest it. However, there's enough -- I suppose there were enough small organic retailers. But, you see, they're nationwide. They're in California, maybe in Phoenix. But that doesn't help in any particular region where you've got a major player that's dominant.

MR. WEISER: Robbie, I want to go to you. You've managed to come up with a cooperative solution. Do you think the model that you've been able to do will work elsewhere, say, in Wyoming or other places where people are feeling squeezed?

MS. LeVALLEY: Well, I'm thinking we'll be glad to process your animals. I do. Again, the six ranching families went together, formed the cooperative to market beef direct because of the premium cattle that they had been, purchased the USDA packing facility, and are direct marketing. My concern is, though, when you read the proposed rules as written now, because it bans the packer-to-packer sales and their subsidiaries, we are a packer. And it does limit our marketing options as the six ranching families. So that's my concern.

Again, that vagueness in that, was that the intent? I'm sure not. But that is one of those unintended consequences, as you read the proposed rule, is that banning those sales really limits our options. We were innovative. The six ranching families took market risks and now will have some of their alternatives limited. And that is restriction on trade. And that's my concern with some of the vagueness in the proposed rule changes.

SECRETARY VILSACK: Can I just comment on -- I'm not going to comment on the substance of what Robbie said because it wouldn't be appropriate since the comment period is still open on those rules. But I do want folks to know and appreciate that comments like that that are directed to the rules will be incorporated into the official record of the comment period; so that anybody who makes comments, we will incorporate that in the official record and treat that as part of the comment-period comments so that everyone can feel free to opine as they wish. But we won't be able to respond because the comment period is still open.

MR. WEISER: I want to jump back. Mike, you didn't identify the concerns about the retail side or even access to the packing facility, USDA-inspected plant. Are those concerns at all for you? Can you see those coming concerns? Maybe you could elaborate a little bit because, obviously, you're in a segment that right now you have the benefit of a lot of demand for your product. But are these things you're thinking about?

MR. HARPER: You know, in times when we had a lot more lambs available to us, yeah, you were always -- if you felt the market suppressed for some reason, you were always looking for an outlet or an option; whatever you could do to maximize your return. And recently we haven't seen that. The numbers -- the numbers just aren't there in the sheep industry anymore. We just continue to lose infrastructure. And we're at a point where if things don't change, we're probably going to lose another packer in the industry. We've got way more packing capacity than we do lambs to fill that void.

So it's hard to look to retail when you haven't got the volume of lambs to build for it.

MR. WEISER: And I'll go to Harry, and I'll turn it back over to the secretary. Is part of this, as, I guess, Mike's comment could suggest, a normal ebb and flow, or do you think there are things going on here that are deeper structural problems, Harry? How do you size it up?

MR. LIVERMONT: Well, I -- there's not a question in my mind that there's something going on. But

I don't understand the structure good enough to know. I'm pretty busy ranching. I don't -- there's something going on definitely.

SECRETARY VILSACK: Let me -- in the interest of geographic diversity here on the panel, let me turn to my left and talk to you fellows. I'm interested -- in my opening remarks I made the reference to the fact that the spot market has contracted significantly. And hog production in 1994 was 62 percent. Today it's 5 percent. And there are some trends suggesting that that may be the direction that the cattle industry is headed as well. Obviously, cash markets are important.

So I'm interested in knowing whether or not you have any thoughts about how pricing for livestock could occur differently, if it should, and what it means to producers when the spot market becomes relatively small and thin. Whoever wants to go first.

MR. ZUHLKE: Well, it seems to affect us more. I mean, the spot market -- you already heard this morning, I mean, we're down to maybe 4 or 5 percent. You know, I personally can't analyze it enough to know what that means in my pricing mechanism. All I can do is tell you what I received in the last -- I've gotten years of data here on prices. And it'll match up to the USDA's pretty -- you could get it from USDA also. The things that affected us more in pricing is -- obviously, last year's was H1N1.

I mean, August a year ago, we sold hogs for $106 a head. You know, that was just devastating to us as producers. This year -- I don't have the August numbers in yet, but it looks -- you know, we'll be at $160 plus. Now -- so I can't find a correlation with what you're talking -- you know, the -- yeah, there's not a lot on the spot market. But why did we go up $60-some a head in one year's time? And I can find different periods of things that have affected the hog market that didn't have any -- we didn't have control of. A few years ago, there was a poultry ban with Russia, and that came back to affect us directly.

Packing -- you've asked about the packing. You know, the only time that that was was the '98 period when we simply had too many hogs for the ability -- for the packers to kill. So that drove prices down in that period. I don't have a direct answer on that.

SECRETARY VILSACK: Allan, your thoughts?

MR. SENTS: Okay. I'll give you a perspective on the cattle side; just to run through a little bit the scenario we deal with each week, trying to determine if we'll have access to a market or not, and then the way that sways our decision.

Early in the week, we try to find -- to get a feel for the capacity of the packer to procure cattle for the next week from our facility especially. Often, I've got one of the main buyers we use that says that if we wait for the trade to develop, he's going be the last guy they call because he represents an area further away from the plant. So already we know we're a little bit behind the rest of the pack in that regard.

So as we go -- one of the decisions we have to make, then, early on is -- we can have access to a captive supply type of arrangement of some kind. So the choice we have to make by Tuesday or Wednesday morning is, Do we want to be sure we move these cattle and go on a captive supply type of arrangement so we will not participate in the cash market, which we have a disagreement with?

You know, we want to maintain an active cash market; believe in the health of many bidders in that process. But we have to make a decision, then. Are we going to very likely be able to participate in that or do we need to take advantage of one of these captive supply types of arrangements which pushes us, then, out of the negotiating market.

And just a little bit of the history we have there and the power and the leverage that the packer has, some years ago, the packer offered a captive supply -- or agreement with some of our competitors in the area, giving them the high of the week if they would commit their entire supply of cattle to them. We were closer to the packing plant at that time than those competitors and put us at a disadvantage, then. Some weeks they would be full at that plant from these competitor cattle that were further away, costing more money to get there, and overlooked us in the process.

So I told that buyer, I said, Well, if you're going to discriminate us -- against us in that way, I'm going to allow the other packer buyers the first opportunity to buy our cattle. I thought it was a turn about -- a fair play type of thing. Well, the original buyer then didn't like that kind of response and told his buyer to quit coming into our yard.

So for three months we didn't get a representative from that major packer into our yard just because we had tried to play ball the same way the packer was trying to deal with us; a very evident sign of intimidation and why you hear these stories of why producers are afraid to stand up and try to make a stand to keep active in the cash market, which we believe is the healthiest form of our business, and just reaffirms the need that we have for a referee in our market.

And we appreciate the effort now being made to address this issue and at the level that it is and greatly appreciate Secretary Vilsack and also the Department of Justice taking that effort to do that. And you've noticed some green shirts in the crowd today. Those are people that are recognizing and supporting GIPSA in addressing this issue through the rule change and that type of thing.

So the effect, then, of our cash market, ultimately, is a detriment to all of us. Initially, the packers have picked off a few of these large entities that are using supply. One of the biggest disagreements we have is with the critics of this rule change saying that it's all about procuring quality cattle. That has nothing to do with it. The largest supply agreements have had everything to do with supply and controlling that inventory and nothing to do with quality cattle. And that's shown with numerous studies and examples.

SECRETARY VILSACK: Chris?

MR. PETERSEN: Yeah. I'd like to go back a few years to the ascent of hogs. And when that happened, the packers and others in the industry figured out they had enough control to force prices down. And so they flooded the market with hogs. And the result was tens of thousands of independent producers being purged out of business or going into bankruptcy or committing suicide; whatever. They were exited out of agriculture.

Now, today we have -- I was up in Minnesota on daily markets. Two to 3,000 of these hogs are now on the spot market. And a lot of these hogs are the poorer-doing hogs -- the hogs that, you know, once in a great while the packers, they need a few pigs and they get these hogs. Now, on the other hand, $100,000 -- or 100,000 hogs a day on the spot market, half of these spot transactions are packer to packer. Isn't that amazing? It's like everybody's being convinced here. I've really been convinced for a long time that something's going on here. And the farmer pays the price.

I don't care if you're an independent pork producer or a contractual pork producer. Because all of the prices are based off the spot market contracts. So, yeah, there's something going on here. Somebody's making a whole bunch of money and somebody's getting screwed.

SECRETARY VILSACK: I'm interested in the panel's discussion, the -- your thoughts about -- when we talk about a spot market, is there a percentage, is there an amount that you feel would be a more accurate reflection or a more appropriate reflection, number one? And, number two, what can we do in the interest of transparency to provide more information so that whatever decision producers are making -- are being made on the best available information and the most comprehensive information?

Mike, do you want to start with that?

MR. HARPER: I'll tell you what we're doing. We price our lambs on a contract basis based on the USDA market sheet Monday through Friday -- Monday through Saturday every week. And I will tell you, I am a little frustrated. We're seeing live lamb prices -- record prices all around us. And, you know, we're big boys. We sign these contracts and they've worked for us in years past.

Well, right now, they're buying lambs on the outside -- you know, outside the dress market at $1.40, somewhere in that range, as high as $1.45. And I'm sitting here looking at a dress market that's quoting me back $1.22 to .25 and -- because my contract says I'm tied into that. Now, I don't know what's going on with the dress market. The last four to five weeks has been changed lower every week; $2 to $3 on the lighter carcasses and a small amount on the heavier carcasses. But why are we seeing a lower dress market and getting quoted that way and higher live prices outside? I'm a little perplexed by that.

SECRETARY VILSACK: Doctor?

DR. HAYNES: Well, what we see on the cattle side is really the captive supply effect. And so you ask -- asked about transparency. If all contracts were reported and all prices on the market -- whatever the entree into that market were reported -- then we'd have more transparency. But really, to get that -- to get a really open robust market, you've got to get away from concentration.

And it goes back to -- it goes back to your question -- previous question about pricing. We've seen a 13-year decline in the U.S. cattle herd for cycles which used to be, say, four to six years and then a nervous cycle maybe would be seven years. And as you hit the bottom of that decline, the producers saw an increase in price driven by supply. Well, we're in a 13-year slide. We are seeing record supermarket prices. And that gap between domestic production and consumption is about 2 1/2 billion pounds a year that's filled with imported cattle. Well, that's killing us. It's driving us out of business.

So pricing is -- and depending on the time of year, some people have to sell for whatever they can get. It's not related to what they've got in the animal, not related to their worth. And they can do that because they control the supply. By controlling packing and feeding, it flows right back to the individual producer.

We saw this spring -- for no apparent reason, except one -- a jump in calf prices and yearling prices in the late spring. And it was because, Mr. Secretary, you scheduled -- you and the Department of Justice scheduled this hearing. Not being clairvoyant and being Christian, I don't -- I don't ever tell you what someone else's motive is. However, there was nothing in supply, nothing in demand that generated that price increase. This hearing was the only change in our life. And so I'm sure that's why the prices went up.

So really, it goes back to simply somehow getting rid of concentration in all levels, facilitating small, independent producers at all levels -- that's the cow-calf, lamb producer, hog producer, and the medium and small packing plants that will bring the feeders back. It'll make the food supply safer. Because right now, it wouldn't take much to contaminate just about the whole meat supply or 88 percent of it. So repetition is the mother to retention. So the key here is to decentralize the meat and food production. Thank you, Mr. Secretary.

SECRETARY VILSACK: Robbie, any comments about transparency in the spot market in the nature of your operation?

MS. LeVALLEY: Certainly when we look at -- there's been an incredible body of study that has been done regarding this; some of it being done by professors here at the Colorado State University and some you will hear from later.

Not only ten years ago, but recently with the RTI study, if we look at the AMAs -- the alternative marking -- it has added $6 per head across the board to the contracts. When you look at all of the information that is currently available on the Internet regarding the grids, the superior sales that happen every week, every month, all of the Internet sales, all of the information is out there. There is a considerable body information already out there.

Now, what is needed, when we talk about it, is just what Mr. Harper alluded to, that information, some of those discrepancies, but certainly not getting into the business of private contracts that are entered into between willing seller and willing buyer and posting those for all to see. That is not what is needed. Thank you.

SECRETARY VILSACK: Butch?

MR. LIVERMONT: I don't have any answers, but I've got a question. Going back to this cow thing, we've got several reasons why the cow market shouldn't be depressed right now. I mean, we've got cows coming in from Canada. We've got dairy cows being killed. And usually this time of year, our cow market is, oh, mid-40s to the top of mid-50s. Now, there's been cows selling for 70 bucks in the last month. Now there -- I mean, they're still pretty much over 60. Why? I mean, it's -- it all goes back to maybe what Taylor said. Somebody up there that's buying these cows knows that we're having these meetings.

MR. WEISER: I want to pick up on a point that Robbie referred to and was referred to in the first panel and couple it with another question, which is: How is technology and the use of broadband where it's available changing the marketing and selling of cattle livestock? And secondly, what advice would you offer to a young person looking to become a cattle farmer or rancher? Maybe just starting at the other end of the table, both technology and advice to the young ranchers.

MR. ZUHLKE: Would you say that again?

MR. WEISER: Sure. Do you use -- let me ask two questions. Do you use technology at all to change how you operate from, let's say, 20, 30 years ago? Has that been something that's starting to enable you to operate more effectively?

MR. ZUHLKE: Okay. Well, I'm right in the middle of -- my three oldest boys are 26, 23, and 20, and they're all becoming actively involved in the farming operation. And hands down, their ability to use technology -- you know, I have a hard time keeping up with it. We do some farming on the side. And their ability to use the GPS and those things are phenomenal.

Did you want other specifics?

MR. WEISER: Does it affect how you sell at all, by the way? Some people, I think, mentioned that they're actually able to use either value price information or even selling directly over the Internet. Is that -- have you seen that at all?

MR. ZUHLKE: If anything, that's my expertise. That's one thing I have over those three boys, yes. And, yes, I use the Internet every morning. I tend to start looking at the markets -- obviously, we trade world markets, you know, just constantly. And you can become totally absorbed with the technology today. Everybody knows that the grain -- everything trades. But I can get up at five o'clock in the morning and you start to gather information already; so, no, it's constant. I mean, I probably spend two to three hours a day analyzing, whether it's the grain market or, you know, the flow of the hogs or where the demand is. I use it extensively.

MR. SENTS: Well, certainly technology has, I think, led to this narrow trading window that we have, in the cattle market especially. Each week we may have just as short as ten minutes to an hour to trade our cattle. And in years past, we used to wait until we could talk to people at night; just to get ahold of people, before cell phones and that type of thing. And we'd have bids that would be good until the next morning or some extended time like that.

So certainly, it's added to the pressure of doing business. Of course, the information available about the market and what's going on is almost information overload at times too. But certainly, that has led to some of these issues that we're addressing, the narrow trade -- trading window and those types of things, along with the decreased activity in the spot market.

And I'd like to respond a little bit about the spot market and the value of these alternative marketing agreements. And certainly, no one -- and we especially -- we've made a great investment in our facility to do sorting, to try to find the product that is desired by consumers in terms of quality, avoiding overweight -- overfinished cattle and those kinds of things.

And we, as much as anybody, don't want to see cattle just bringing one price. And I know the proposed rules do not do that. And it's extremely frustrating that many of the nay-sayers continue to say that this is going to eliminate those things. And we can think of nothing more unreasonable, as the language of the law indicates, than for that to happen. And I'm confident it will not happen that way.

In terms of how to address that -- and I think you'll hear some more detailed explanation this afternoon -- certainly, whole captive supply issue is something that has to be looked at. And how do we start? Maybe there needs to be a plant-by-plant percentage; 50 percent. There needs to be input on it to develop what that level is; that cattle have to be procured in the spot negotiated market. And that gets back to the information part that you're asking about too, then.

We need more information to know how many cattle are actually negotiated for versus how many earlier in the week too. So much of this is after the fact that we get that information. If we could get that sooner in the week -- because it impacts our decisions that week -- to know better what we're looking at in terms of what is available in the negotiated market. And those are some of the key things that I think we need. And there is great premiums out there. And we have customers that have focused on identifying those premiums because they know the market generates them if we have access to it. So again, market access is the key question we have.

And for the young people starting today, I think it's important, first of all, to get the education, to use the technology, be able to address the issues, but also, then, that they're involved in these kinds of discussions too to shape the policy that we have that's going to impact the likelihood of our rural economies to continue, the likelihood that they can come back. And there is value -- economic value in having 10,000-head feedyards distributed across our rural economy versus concentrating just for market power alone in the 100,000-head feedyards.

MR. PETERSEN: Yeah. I access technology on a daily basis. You know, I'm proud to say I sell a lot of stuff, you know, through the Internet, word of mouth; whatever. I sell local first, take care of my customers, and then I sell in the Berkshire Goal. I'm proud to say, unfortunately, that today I don't sell one hog to a packer. I gave up on them. I got screwed over too easily. And technology, yes. Again, I use it, but I'm busy farming and -- you know, a couple of off-farm jobs or whatever. And I guess my response is: You can't depend on it and it's not the answer to correct the problem here. We all know what the problems are; every farmer or rancher sitting out in the audience.

I just want to bring up one more thing -- oh, technology, evidently, has been very successful for the packers. I think we all realize that.

One other thing I want to bring up. A good friend of mine, John Crabtree, of the Center for Rural Affairs, him and I have known each other for years; done a lot of work together. There's some rule making going on, and here's what's going on. The packers routinely pay $0.05 to $0.06 more per pound or more in volume-based premiums to the largest hog producers simply because they're large. $0.06 may not sound like much of a discount. But I tell you what, for an independent producer, the guy with 150 sows, farrow-to-finish operation, trying to market on a yearly basis, that equals $56,000 of income. That's an off-farm job.

We don't need the whole slice of pie; we just need fairness and equality. And this is very, very important if we want to get the age of the farmers and ranchers down to where they're farming 20, 30, 40 years and not 10 years. Thank you.

SECRETARY VILSACK: I'm interested in this issue of access. You-all have mentioned it at one time or another in your comments, either having concerns about it or being able to meet to -- to meet the needs. Tell me a little bit about what you think the USDA ought to be doing with its rural development programs to address this issue -- or what could we do in terms of creating more opportunities for more markets, and how could we do it in a way that would be -- that would allow someone to make a decent living by operating one of those facilities.

MR. HARPER: I guess to stimulate young

people, like we've been talking about, it needs to be more profitable; low-interest loans or something to that degree and in the like, I think, to get somebody in. But it's not easy to get in anymore. Property values are extremely high. The cost of our livestock right now are -- and on the sheep side are extremely high. So you're talking about, you know, a young person just off -- I don't want to say off the farm -- most of the young people in our industry have inherited, grown up in it, it's a family operation. If they choose to continue to stay, they continue on that way and they've got some resources there.

SECRETARY VILSACK: But my question is: If you have to travel 100 miles or 200 miles or 500 miles to basically sell your livestock, how could USDA provide a closer market? Are there things that we should be doing that we're not doing; things that would be able to be helpful?

MR. HARPER: I don't know that I can answer that.

DR. HAYNES: Well, certainly back to something I mentioned earlier, Mr. Secretary, if the rules for the state-inspected plants are released, then I would suggest that the USDA do that so a state-inspected plant that meets all the standards can ship nationwide.

That takes us back to local. Then you could take your present cadre of USDA inspectors without having to hire more and let them randomly inspect to be sure these needs are met. See, the states would have to maintain the standards. But you could randomly inspect to be sure that's being done with your present cadre of USDA inspectors, and that would free up local trade. That's not an overnight thing. But the small packing plants coming back will bring the small feeders back, will bring meat production and sales down to a local level.

You mentioned technology earlier. The video has actually exacerbated concentration because they can get more cattle in one shot. And the fact that you maybe get a nickel more, a nickel less, the problem is you're not dictating the price based on what it costs you to produce the animal. The only way to do that is direct retail sales. And the only way, really, for most of the people in this room -- whatever the product is -- is to have local retail sales that -- at least regional retail sales -- are local and regional packing plants that cater to the small and medium-size producer.

We still have to solve the shelf space problem. But I think we can do that in a cooperative way. I think we can do that by having our individual states regulate fair trade and monopolistic activities. So I don't think the USDA has to do everything. But I think to allow us at least the infrastructure -- which is what I consider -- me, as a producer and the meat packer and the small family feeder, really -- is the infrastructure in supplying red meat and fiber to the nation.

So the USDA has a role in that. The retail part of that, the supermarket part of that, I think that goes back to the states. And we should, as producers and taxpayers and voters, we should be able to deal with that on a local level.

SECRETARY VILSACK: Robbie, you basically can tell us about the economics of this. But what would it take, if you were starting from scratch, to do what -- to replicate what you're now doing with your operation? What would it take? How could the USDA be helpful, apart from inspection issues, but from a financial perspective?

MS. LeVALLEY: Again, when we purchased the plant, it took significant upgrades to make it so that it was -- that it did pass all of the USDA inspections. And we are -- we will average two to sometimes even as many as four -- but the majority of the time, there's two inspectors and they're full-time. We welcome that. We use that as a marketing tool to show that there is that oversight for not only the food safety but for marketing, in general. We use that.

One thing that in -- we talk about rural development and we talk about what can be done for the young people. There are -- we have received a value-based marketing -- to expand our market into ready-to-eat entrees. And we did receive a USDA rural-development grant to do that. But that limitation on rural development where you cannot build infrastructure, purchase equipment under the rural development really hinders.

You can study something until you're blue in the face. But if you can't implement the results of your study -- meaning you can't purchase that $30,000 piece of equipment without a significant rigmarole, that's where if there was a lower base there that would be easier to work with, that would truly help from the rural development side. Now, there are programs where you can purchase equipment. I certainly understand that. We've looked at that over and over. But it's that onerous regulation -- again, we cannot regulate the marketplace -- that really causes us trouble when we try to implement some of our development grants.

SECRETARY VILSACK: Let me clear about this. In terms of regulations, are you talking about the application process or are you talking about some restrictions in terms of geography?

MS. LeVALLEY: We're talking about the

restriction on what you can use those dollars for.

SECRETARY VILSACK: So flexibility in terms of the dollars?

MS. LeVALLEY: Correct.

SECRETARY VILSACK: Okay. Any other panelists want to weigh in on that?

MR. SENTS: Well, certainly, you know, the programs that provide low-interest loans for beginning farmers and ranchers, I think, are -- you know, serve a good purpose that way to encourage that type of thing. And the whole issue on the -- to address the efficiency that is needed to operate some of these different packing plants and that type of thing, you know, just continued research in some of those areas that might benefit smaller operations to succeed economically.

But I think also just enforcing the laws that we have will do much to keep a diversified, efficient operation size. And the -- GIPSA is attempting to do that now. You know, another area that's going to have to be addressed is -- this whole market power thing just gets passed down the chain. We have to have it addressed at the retail level to address what the packers, you know, face in their operations, which is passed down to us, then, and somehow get a handle on this distinction between market power, size for that, versus the economy as size efficiencies. And we've just shifted and went beyond efficiencies to just accumulating market power.

MS. LeVALLEY: I'd like to address the young-people side. I deal with young people in our area on a daily basis. And there are five young producers ranching -- again, families that have come back in the last three years. They want to be part of the infrastructure. They are -- struggle with just, as mentioned earlier, the access to capital, the access to the operating, especially now with the ever-increasing regulation when it comes to operating capital. So there is that willing desire to come back. But it's the overall picture.

We use the Internet very well to market our product to tell our story. We are all cattle producers and we all have a quality product and we have people that are external to this industry that are trying to say that we are bad and that we are bad people and that we treat our animals bad. That's how you can effectively use that Internet to tell your story. Again, we are all cattle producers.

But when we work with young people, again, on a daily basis, they're concerned about, What is the sage grass issues, endangered species going to do? What about the estate tax? What is that going to be? What about the clean water? What about dust? All of those things -- again, it's that increasing regulation that as we sit down with young people, we really have to take the big picture. There's so many external people out there that want us out. We should not be circling the wagons and shooting inward.

MR. HARPER: Mr. Secretary, that brings up a good point, if I could mention one thing. We've got -- recently there was a decision made on the Payette National Forest in Idaho. We're going to lose potentially five ranching families in the sheep business. One of the largest producers in the United States is greatly affected.

And, you know, you talk about encouraging and trying to get people to stay there. Ken's younger brother's got three young children and he's excited about the business, and now he's been kicked off the Payette Forest because of bighorns. And there's been -- I think the Carlson family is one family up in that area that's been there since 1928. And they've lived there with bighorns the entire time, and there's still been no significant proof that disease is communicated back and forth between domestic sheep and bighorn sheep.

But the easy quick fix is to just oust the rancher and off he goes. And it affects -- it affects my market because we buy lambs from them and we feed them and we provide that product to the public.

MR. PETERSEN: As far as rural development, you know, there's been a lot of money invested in rural America, and I'm sure that will continue. But we need to invest in our main streets and infrastructure that, quite frankly, in this day and age promotes and enforces more localized agriculture. Okay? The State of Iowa invested in Supreme Pack in northwest Iowa. That's where some of the Niman ranch hogs go and that's where some of the Berkshire Gold hogs go. It's providing a service to small, independent producers.

And, you know, the last thing I want to see is -- and backing up a minute, we need to evaluate who's going to benefit first from rural development funds. You know, I see a lot of bad things going on; I see some good things going on. The last thing I want to see is guaranteed loans put out there by the feds and the taxpayers to back up vertically integrated packing facilities.

MR. WEISER: Alden, do you have a point?

MR. ZUHLKE: Yeah. Again, I'm just speaking from experience. My second son is actually using equip funding, and that's been a very -- the oldest son used it also, and I've used it in the past. That's been very good for us. He's also -- the second one is also looking into young farmer ownership. And there's, obviously, a lot of requirements. And he has the ability to do the paperwork to get it done. So we will get it accomplished. But, you know, I don't want to make light of the fact that one thing that they are requiring is that he has a three-year contract to sell his hogs to somebody.

So, you know, the contracts are very important for these young people. That's the only way the bankers are going to let them secure these loans.

MR. WEISER: So a question that has been diverted too -- I want to pick up on it -- is premium or niche offerings that give people a differentiated product. How significant is that and how real is that opportunity? I think a couple of people have mentioned it. Taylor, you mentioned that in your case, and Robbie as well. Why don't you start and then others --

DR. HAYNES: Yeah. That niche is two-tiered for us; certified grass fed, organic. Obviously, retail is where the great deal is. And retail can be six-, seven-fold over -- over what the commodity price is. But on my wholesale side, we run about 30 percent -- we'll average 30 percent in our prices than retail market.

But everything that happens on the commodities side for fed cattle affects us. Because if we don't take a contract, if we don't cut a deal with a major purveyor, then the only place we can go is the commodities side. So they use that against us too. But it does provide us some margin and some cushion to be certified organic. And there are a fair number of hoops to jump through, so it's not just something you do. It's a way of life and it's a mindset. But it's not hard to do. It's not rocket science at all.

For young people, my son -- I'm the fourth generation in ag -- production ag since slavery, continuously, and my son is the fifth. And for him, the fact that we're certified organic -- and he is an excellent marketer; we do Internet sales as well -- that really is the thing that allows him to come in and have a future in the business.

MR. WEISER: Robbie.

MS. LeVALLEY: Value-based marketing has given our family and our direct marketing business the opportunity to compete at the highest level. But even before we started Homestead Meats -- again, that value-based marketing where we had that relationship with the individual that provided the feedback -- that gave us the information to improve the quality of our cattle. And when we improved the quality of our cattle, then we had a significant increase in the choice grade.

When we had the significant increase in the choice grade in our cattle -- and there was an increase in that subsequent price received for the cattle -- that's value-based marketing. And that was the only way that we, as someone who was in that 300- to 500-head range, can actually take advantage of that quality and compete. It's having that quality-based contractual agreement that rewards quality.

MR. WEISER: Mike, did you want to add --

MR. HARPER: No.

MR. WEISER: Allan?

MR. SENTS: I'd just say we've seen a great benefit -- we are a CAB-licensed feedyard; certified Angus beef. And since beginning that about 12 years ago, we've made improvements in our facility, also the training of our people, and also then the quality of cattle that we've handled. And a lot of that's been the information we've provided back to the rancher to make the improvements that have been mentioned. So we've been real active in that process.

And the neat thing about that -- yeah, there's some of these niche programs that are great for the people involved in them. But in terms of the volume of premiums available, they rest in the USDA-identified grades -- prime, choice, certified Angus beef -- that are available to anybody. Those premiums are determined in an openly negotiated marketplace. It doesn't take specialized deals to get access to those things. And those are premiums that are determined in the marketplace. And we have found great value in them and appreciate that and that know they will be continued, even under, you know, updated rule changes and that type of thing.

So we have found great value in them and certainly look forward to being able to capture that in the future and know that that will happen.

MR. PETERSEN: Well, the number one thing about, you know the niche market is there's good profits in them. And, you know, the Berkshire program they sell private -- and the Berkshire Gold -- their profits are basically one-third to double, you know, the price of what you're getting for your livestock.

Now, we've got to get smarter in the 21st Century here with food. And I'm talking about food miles. You know, food travels, on average, every bite you take, 1,500 miles in this country. And in the time of us trying to deal with energy costs, we've got to rethink the whole structure of agriculture here. There's things we need to promote more than others. There's other things we need to discourage.

And my priority -- I'm a firm believer, you know, it's safer to eat -- quality control is great because I eat it too. And I don't use antibiotics and -- and, you know, the quality is there. And that's -- a wonderful thing we used to have in this country 20 and 30 years ago was a more localized regionalized food system. It worked. It worked. We fed this country for decades. It worked. And my personal opinion is that, you know, letting this consolidation and concentration get out of hand has contributed to the public health crisis in this country and has contributed to the food safety problems in this country. And, you know, I'm from Iowa. You-all have been reading about the ag recalls and the concentration in the ag industry. I hope I made my point. Thank you.

MR. LIVERMONT: Secretary Vilsack --

SECRETARY VILSACK: Yes.

MR. LIVERMONT: I think these niche -- these niche markets are good. But I'm thinking we probably can't all get into niche markets. You mentioned what you could do to get maybe the market closer. Well, I don't have a problem with hauling my cattle to a market to get price discovery. I mean, that's where we find out what our cattle are worth and to, you know, just let everybody bid on them that wants to.

Well, the problem we've got is getting our fair share of them that the packer allows us to have, it looks to me like. And I -- that's kind of -- kind of the biggest thing of people -- these young folks in business, is being able to get their fair share.

MR. WEISER: If I could follow up on that point. You and Taylor said something. How far is too far in terms of -- to have to haul your cattle? When does it become cost prohibitive? Either of you can jump on that point.

MR. LIVERMONT: It's a good question. I -- we're lucky in Western South Dakota. We've got markets everywhere. I mean, we've got markets within 50 miles of us and some people would rather go 100. I mean, it's just their preference.

DR. HAYNES: Anything over 100 miles, I ship it frozen; cut and wrapped. And live cattle, I try and keep it under 100 miles. And I like to rest them once they get there at least a day or two before they are sold.

MR. SENTS: Yeah. It's a bigger issue the bigger the animal, I think. So for the finished cattle, especially, we find, once we go -- it's about 180 miles to the furthest plate -- plant in the state for us. And once we go beyond that, we begin to see bigger issues in terms of shrink and dressing percentage loss and that type of thing. So certainly they travel further, but we find that to be kind of a workable distance.

MR. PETERSEN: Yeah. The way it used to be compared to the way it is today in the last few years -- when I first started raising hogs, you know, you'd haul them 10 miles down the road and they'd get weighed up and you get a price. And, you know, it got to be where my hogs were traveling 100, 200 miles to get to the market as -- and, thus, we consolidated. And you're paying the freight and you're paying the shrink. Because them hogs are not weighed until they get to that facility. So, yeah, it's a huge discrepancy in the prices you're getting.

MR. ZUHLKE: You know, I'm fortunate in northeast Nebraska. You know, currently, I think it's about 180 miles is the farthest packer. But I've spent some time with some of the Montana guys. And, obviously, they have a challenge. I -- you know, I don't remember if it was 1,800 miles. It was a tremendous haul that they have to haul. So their costs -- you know, it's tough. You know, typically what happens in the hog industry is they may become the icewing provider, which they can haul greater quantities and then have them fed out in the Midwest, so . . .

SECRETARY VILSACK: On the USDA Web site with the "Know Your Farmer, Know Your Food" KYF area, there are maps of the country. We've tried to begin the process of trying to identify precisely where all the facilities are so people can visually see where the gaps are. And I think it's fair to say that -- you mentioned Montana. In that part of the country, it is a challenge.

Now, in other parts of the country, there are probably significant numbers and fairly convenient opportunities. But in other parts of the country, there are serious holes that probably need to be addressed, which is one of the reasons why I asked the question about rural development resources, whether or not we could better use and better target those resources and meet that opportunity if it was financially feasible to do it.

We have just a few more minutes left in this panel. And I think what follows, if I'm not mistaken -- John Ferrell -- is that folks pick up lunch and then they come back for the opportunity for people to comment. There will be numbers posted, I think, on the screen. And if your number is there, you just stand in line and your comments will be taken down. We have a reporter here. And we appreciate the hard work of transcribing something like this so that we have an accurate record. So we'll be in the process in just a few minutes of starting that.

I'd like to give everyone just a minute to summarize and put it in this perspective. If we came back here because the good doctor made sure that we were all healthy five years from now, what would you like to see the situation to be? How would the conversation hopefully be, either the same or different?

MR. HARPER: Well, we've heard the same for so many years, we're kind of accustomed to that. But I would like to see definitely, the way we've about it -- we've got to do something to stimulate some young people to get back into agriculture some way, somehow.

We've seen nothing but our numbers decreasing in the livestock industry. We've got to relax some of these restraints on public lands. We've got to help our ranchers with gradation. We've brought back the wolf. We've protected the grouse. We've been -- the bighorns. And the consequences of that are diminishing numbers in the livestock industry. And if we don't work on some of that stuff, I don't know that we can bring it back.

So I hope if we do this in five years, if you guys would consider having me back up here, it would be a whole lot better picture.

DR. HAYNES: Mr. Secretary, I would like to see the room full, I would like to see the average age in the room be about 40 or 35, and I would like people talking about problems that they're having because we have so many outlands now, so much direct marketing, and we're making so much money we don't know what to do with it.

And I would like us to -- as an agricultural community as a whole, I would like us to be somehow able to communicate to consuming America that we really are the environmentalists, that we really are the people that care for the land and the animals.

So when we come back in five years, we won't be concerned about consolidation because we'll be decentralizing. We won't be concerned about imported foods because the quality does not compete with what we're producing. If we can somehow touch the market, that will work itself out without regulation. So I'd like to see that problem solved in the next five years.

MS. LeVALLEY: In five years, I would echo that I would like to see the young people here also. But I was reading minutes from an affiliate -- a cattle affiliate from 1946. And here in 1946, the minutes were they were concerned about the average age of the producer. They were concerned that producers were getting off-farm income.

So in five years, what I would really like to see is again that there is that, more young people, and that we have that true story about the good that we do, not only for our animals and for the safe food supply that we provide to the American people, but that message is clearly communicated and understood outside of just our circles that we really truly have that connection with those individuals that may not understand how we do things and care for animals.

But what also -- all of the information that's been presented in the first panel and this one has been good. But what we really need is that in-depth analysis of the -- of all of these changes that are occurring or being talked about and understand the unintended consequences.

The proposed rule signifies structural change with very vague language. And what I really want is there not to be that vagueness so that we do have that young person that can -- has that assuredness that, no, I'm not going to be taken out because of that ever-increasing regulation or because of the constant threat of litigation in the business. Whether it be from something as simple as the endangered species -- that's a joke -- or our own marketplace.

So again, I would echo what everyone has said about the young people. But I want the in-depth analysis, and not litigation and intervention, that determines and drives our ability for our young people to be in this market.

MR. LIVERMONT: Well, I -- along with the fact of wanting to see more younger people here five years from now and quite a lot younger -- just picking out some parts of this -- of the speech I thought I was going to give, because the cattle industry is the economic backbone for much of Indian country, the federal government must take steps to prevent the concentrated beef packers and the concentrated cattle feeders from engaging in the practices that are eliminating the economic opportunities for individual Indian operators.

We must preserve competition, not just in the market between the cattle feeder and the beef packer, but also in the market where Indian operators sell their calves to backgrounders, stockers, and feedlots. Competition is what prevents the beef packers from controlling the cattle supply chain like they now control the hog supply chain. And, I mean, that's -- that's what we're up against. That's where our problem is.

MR. PETERSEN: Well, it's a heck of a wish list I was writing down here. I could just keep writing.

SECRETARY VILSACK: You've only got a minute.

MR. PETERSEN: I've only got a minute the secretary tells me. Well, you know, like I mentioned earlier, I'd love to see the packers have to go out to the countryside to bid hogs and cattle and whatever else again. So, you know, ban them from owning the critters. That's the first thing.

I'd like to see everyone benefiting out of this restructured system. And I mean everybody: the family farmers, the consumers, and the packers. They always have made money. They just got a little greedy here. I'd like to see the environment benefit. We need a cleaner environment throughout this country. Iowa, unfortunately, is 50 of 50 in water quality. To me, that's an embarrassment for our state.

I would like to see rural development working, population stabilizing, beginning farmers wanting to farm. I would like to see the food miles coming down on more localized agriculture. I'd like to see food safety -- better food safety, starting with family farms again raising and owning the livestock, and the animal husbandry issues out there. I think every independent producer knows that any independent family farmer takes far better care of them animals than anyone else on this planet. Thank you.

MR. SENTS: In this country, we value our freedom, I think, as much as anything. And if we're honest with ourselves, we recognize that all freedoms we enjoy are protected in some way. There's always an individual, an entity, that in their own self-interest will try to extend into the freedom of another. So we want to recognize the freedom of individuals to contract or make agreements as they wish, but we also recognize the need for limits when that freedom imposes on the freedom of another people.

If we will pursue a policy that will halt this trend of concentration of size to just achieve market power and we can diverse that through our rural communities and pursue a policy that allows the most -- the smallest economically efficient unit to survive, we will disperse and keep -- spread out in our rural economies in an active industry that will provide opportunities for our young people.

So it's my hope that we will pursue policy that allows those economically efficient units to survive by securing that they've got access to a market. And if we do those things, it will help the survival of our rural economies, the employment of our young people, and the best thing is it won't cost the federal government a dime.

MR. ZUHLKE: I think it's important that you, you know, try to focus on some of the things we agree on. And hopefully, everybody in this room would raise their hand that we're all meat eaters. That's one of the things -- you know, our industry, obviously, is worried about packers and concentration and the spot market. But what's being forced on us, not only regulations, you know, within the environment -- which some of those we do need to deal with. There's no doubt about it. But, I mean, the groups that are coming at us and telling us we need to raise animals in a certain way is probably a real concern in our organization.

But there's one common theme in this group, you know, and that is the thing -- we all want young people back involved. You know, somehow we have to turn the world around. I have just one little perspective. I think that camera is pretty good. But there's -- our two youngest kids are actually adopted. And I don't know if that shows up on there or not. But anyway, we adopted them from Haiti.

And so the underlying freedoms that we still have in this country, you know, are enormous. In fact, I spent time down there at different times. And the restrictions they have -- you know, their best day, you know, is not good. You know, it's a real challenge. So we've got some real positives on here. And hopefully, we can all work together and focus on things that will improve and help each one of the industries and also look at each individual industry. Because we are -- we are diverse.

SECRETARY VILSACK: Phil, do you want to talk?

MR. WEISER: I think the one thing that's worth saying is what was said at the outset -- and we're only halfway through the day -- the amount of learning and getting experienced people who are on the ground is invaluable. And the aim here is this is not the end of a process; it's really the start of an ongoing process to make sure we're getting from you-all your perspectives, your ideas. And even if someone out there doesn't know all of the dynamics at work, that's our job, to take that information and make sense of it. So thank you for helping us -- enable us to do our jobs better.

SECRETARY VILSACK: I want to thank the panel. And I want to take, I guess, a personal privilege for just two minutes to speak about what I've heard and what I've heard as I've traveled to virtually every state in this country. There really is something at stake here more than what we've talked about today, which is the livelihood of good, hardworking producers and more than the capacity of rural development, rural economies to survive and small towns to thrive. It is really, as Governor Ritter suggested, about the value system of this country.

As I travel around the country, I try to tell our urban and suburban friends something about rural America, and the best statistic I give them is the following: One-sixth of America's population lives in rural America, but 40 percent of the men and women in uniform come from rural America. So 40 percent of those 100,000 troops that are coming back from Iraq probably live in small towns, probably grew up on a ranch or farm. 40 percent of those 130,000 young men and women that risk their lives in Afghanistan are from those small towns, those farms, and those ranches.

Why is that? Now, some would suggest that the reason is because they seek opportunity through the military for a better life. And that may be part of it. But I think there's something more at work here, and that is how young people are raised in rural communities across this country. They are raised with a very simple set of values. Hard work is its own reward; you are responsible for your actions.

And they also understand something about Mother Nature, which is that you can't keep taking from the land; you have to give something back. You've got to replenish it from time to time. And when you do, Mother Nature will reward you with good and bountiful crops. The country is no different. You can't keep taking from it. Periodically you have to give something back. These kids understand that because you-all have taught them that.

So as I travel around this country talking about the importance of farming and ranching, I go beyond the food supply, the fact that you're responsible for 85 percent of the drinking water in this country, the fact that you're also helping to clean the environment, the air, through carbon sequestration, which you-all do in your fields. I talk more about this set of values.

To me, what USDA ought to be about -- and hopefully it is about and under my leadership we're making sure it's about -- is expanding export markets, creating more domestic opportunities, and having more local consumption and production being linked, making sure that we do pay attention to food safety because that does and can impact markets -- and certainly, the innocent get hit very, very hard when there's a food-safety incident -- making sure that we use our rural development tools in a way that will help build up those local market opportunities and create the off-farm income that many farm families still need today and, in the foreseeable future, will likely have to have. That is part of the work of USDA.

These hearings are also part of our work, which is to ask tough questions, to stimulate important and significant debate on how markets are functioning, who's benefiting, who's not and why, so that we can do a better job of making sure that that value system that I talked about remains alive and well. I think it's at the core of this country, I think rural America is the soul of this country, and it is worth preserving and fighting for and worth making the difficult decisions that will have to be made in order to do the very best job.

So I want to express my appreciation to all who are here today because you all care deeply not just about your own operations, but your community and about rural America. And that says a lot and hopefully the rest of the country is paying attention. Thank you all.

(A recess was taken from 12:03 p.m. until 12:41 p.m.)

MR. FERRELL: So why don't we go ahead and get started. What we'll do is we'll just go back and forth to each microphone and we'll just take your comments. I do ask that if you feel comfortable providing your name, say it very carefully so that our court reporter can have it transcribed correctly. If you don't feel comfortable providing a name, you don't have to do that.

So with that, why don't we go ahead and get started. And we'll start over here.

MR. SANDERS: Good afternoon. My name is Chris Sanders. I'm with the United States Food Commercial Workers Union. I'm here with about 100 people from all over our union. We represent unionized grocery clerks and meat packers. I'm personally from Kentucky. I traveled all this way to speak on behalf of 20,000 grocery clerks and meat packers and on behalf of 1.3 million members of our great union across North America.

I want to say the same thing here that I said in Alabama, what my brother said in Madison, Wisconsin, and what my president has been saying everywhere he goes, which is this: If we're not dealing with the retailer in these hearings, then nothing really matters. We have to deal with the monopoly that is dominating any and all other monopolies beneath us.

Some folks are afraid to name names in the room. I'm not. The biggest -- the most troublesome of them all in retail is Wal-Mart. Wal-Mart, bigger than the next three grocery chains combined, is driving the change in the food dollar that's hurting workers, that's hurting ranchers, that's hurting producers, that's hurting the packing-house counties. They take too much and they give us too little. We've got to do something about that.

So I want to say to the Department of Justice, to the Department of Agriculture, and to the Federal Trade Commission, who is not here yet but needs to be in these proceedings, you've got to do something about Wal-Mart. If we don't, all the other changes aren't really going to make much difference. And the moment is here. We won't have another moment like this for years and years to come. We have to do something this time.

I want to say one more thing too. If there are folks here from the industry, if there are folks here from Wal-Mart, they should come to this microphone. They should speak out the same way that we speak out. They should speak out in front of everybody, transparent, and express themselves. Don't wait to go to Washington, fly in, have a power lunch, do your thing, and hide behind your silk suits, your fancy cars, and your big dollars. Speak your piece in front of everybody. Express your feelings. That's what America is all about. Please, please, please, do something about Wal-Mart. Thank you.

MR. FERRELL: Sir, we do ask that when you come up, do provide your ticket so that we know that you've been called on.

We'll now go over here.

MR. LEWINE (phonetic): Good afternoon. I'm Steve Lewine. I'm in the farm division of the Iowa attorney general's office. My boss, Attorney General Tom Miller -- my boss, Attorney General Tom Miller wants to thank Attorney General Holder and Secretary Vilsack for the opportunity to discuss these issues. We've been involved in working on issues involving access to free and open markets for livestock producers for -- since 1995. We've been involved in many different projects in that area.

One of the things we were involved with was developing a Model Producer Protection Act, which provided a series of protections for livestock producers that were engaged as contract producers for processors and other integrators. That act has not been fully adopted by any states. Several parts have been adopted in Iowa. Also, in the 2008 Farm Bill, several portions of the protections included in the Model Producer Protection Act were included as part of that act. In addition, the new rules proposed by GIPSA include additional protections that were included in the Model Producer Protection Act, and we are supportive of those provisions.

Finally, in 2003, our state was sued by Smithfield Foods in a constitutional challenge of our corporate farming statute, specifically the provision that prevented processors from being engaged in contract production in Iowa. After about five years of litigation, we resolved that suit with a settlement pursuant to which Smithfield agreed to voluntarily implement most of the provisions of the Model Producer Production Act with regard to their contract producers in Iowa. Shortly after that, Tyson Foods, Cargill, and Hormel entered into similar consent decrees with our office whereby they agreed to live by the protections in the Model Producer Protection Act with regard to their contract producers.

Since that time -- I wanted to point that out because we hear a lot today about how those provisions may stifle certain portions of the livestock sector. In Iowa, since the bill's entities have agreed to live by those guidelines that were set out, the contract production in Iowa has actually increased and is far from stifling. The industry has increased. We have more contract production in Iowa now than we have had anytime in history.

Again, our office has been involved for a long time with these issues. We're anxious to provide whatever assistance we can with regard to developing a final rule with GIPSA, with other attorneys general from other representatives from the industry, and with other agencies of the federal government to be involved in developing a final rule that works for all parties in this industry. I think everyone's goal is to develop the best market discovery, the best access to free and open competitive markets for farmers that we can. Thank you.

MR. HAYES: I'm Scott Hayes. I'm an independent pork producer from Missouri. I would encourage the Department and DOJ to look at what happened in Missouri about ten years ago when we passed similar legislation on price discovery.

The governor -- in seven months, the governor called a special session just to do away with that legislation it was such a mess, such a fiasco. But in that period, we lost the only packing plant that was killing independent hogs -- independent producers' pigs. The University of Missouri says that the pork producers in Missouri lost $5 per pig during that period. And we continue -- that continues to cost us now because we have to ship our pigs farther away.

The other thing I'd like to say is it's my understanding from the World Health Organization that we have to double food -- the food supply worldwide in the next 40 years. That's going to provide a lot of opportunity for young folks. It's going to provide a lot of opportunity for people like myself. There's nowhere in the world that can do a better job of producing pigs than we can right here. So I ask the Department to just leave us alone and let us produce. Don't raise the cost of our production where the foreign countries can outproduce us. Thank you.

MR. FERRELL: Just a real quick point. If someone is in a spillover room and they see their number up on the screens, they can come -- go ahead and come in and line up at the microphone.

MR. MEYER: Thank you. I'm Vaughn Meyer, a producer from Northwestern South Dakota and chairman of the South Dakota Stockgrowers Marketing Committee. And

I'd like to relate briefly to that which will not be said here today.

The silence here today is representative of the 370,000 producers who through the past 16 years have lost their hopes and dreams in production agriculture. That silence is also from half a million family members that saw their last hopes and dreams of their ranch in rearview mirrors. That silence is also from the 215, 000 main-street businesses that have exited our small towns in the last decade.

This issue is not about organizations against organizations or producers versus feeders, packers, and retailers. We are here today to strengthen the previous rules in order to rebuild America's largest industry -- family agriculture -- a rebuilding that once again will put the laughter and prosperity into our small towns, a prosperity that will carry into our major cities and to the footsteps of our capitol, a prosperity that will rebuild the foundation of this great country that it was -- was once founded upon, and a prosperity that's also to prerequisite for our national security and our industrial superiority of the United States of America.

Mr. Secretary and Mr. Butler, on behalf of the South Dakota stockgrowers, I thank you for the once-in-a-lifetime opportunity to stand before you today and witness the rebirth of family agriculture. And as a member of the South Dakota stockgrowers, we proudly support your endeavors.

Now I have one quick question someone answered in relation to Secretary Vilsack's comment on developing foreign markets. As a member of our South Dakota Beef Council, I applaud these efforts and -- we work hard to develop those markets and we can sure help in developing those markets. However, that's as far as we can go. We do not have control of those foreign markets just like we do in our U.S. markets. Those markets are all concerned -- controlled by the same people that are controlling us here domestically. Thank you.

MR. HOFFMAN: Hello, panel. I thank you for the opportunity to speak to you. My name is James Hoffman, Fort Pierre, South Dakota. I'm a cow-calf operation and ranch. And it all boils down to profitability to keep the farmer and the rancher on his land. And some of the things that sort of took this profitability away is the interstate eliminating of small packing houses. Where in South Dakota, we've got three or four states right around us, Nebraska and Iowa -- in Nebraska, a small butcher cannot sell his product across the line, which puts a great handicap for the smaller towns.

Same way with our marketing our cattle, where it's been stated before where you've got one day or one hour or 15 minutes to make up your mind when you go to sell or not. And packer ownership -- when they've got ownership, they can control everybody else. Because when the price is high, they'll sell it by their own and sell them. When the prices are low, they'll buy your cattle.

And another thing that the -- several of our stockers went to court against -- one of them was against IBP and they beat them. And the jury awarded the stockgrowers -- or the stock producers a large sum of money. And the judge says, I don't know how to divide that up, so we'll throw it out. Well, what good is our justice system with our jury of 12 people and a judge overrules? I call that dictatorship.

And there's -- I'll cut this briefly. One way to keep the farmer and rancher on there -- I'm getting ready to -- very close to retirement. If you do away with the inheritance tax and give it to a son or daughter that's on the ranch, and as long as that son operates that ranch for ten years, that tax would be forgiven. And then for the next generation to pass on, establish the value of that land at the time the first giver gave it away. So when the second son, or the one to do his land, you'd have a basis for inheritance tax down the future. And this would not cost the government anything. It would greatly enhance the rancher and the new rancher coming in.

I thank you for your time and God bless you.

MR. SINETT (phonetic): Thank you very much. My name is Richard Sinett, and I'm a cow-calf cattle producer there in California. And I'm here to defend the cash cattle market.

The cash market's reported to be approximately 50 percent of the total market. This cash market's already thin as a result of the structure of the industry and the number of outliers which do not reflect the true market. The only way to protect the cash market is to halt the growth of captive supplies and possibly even roll back practice. As it should be, the language of Section 2(a) and (b) of the Packers & Stockyards Act does not require the finding of harm to the industry. The definitions and clarifications found in new proposed regulations attempt to make that clear.

I am here to support the adoption of the proposed rules and regulations. However, some small adjustments might be necessary after some of the things I've heard today. However, how is it that if I strong-arm someone out in the hall I could be put in jail, but if a -- but to receive just and due compensation for my hard work and efforts, I have to prove that there is an injury to the industry and not just to myself? That's a pretty ridiculous test to overcome.

So I would appreciate your consideration of these new proposals. And I thank you for your time and your presence here. Thank you.

MR. SHOEMAKER (phonetic): Herman Shoemaker, Prairie, South Dakota. And I can't appreciate enough the meeting that we're having here today.

I want to talk about a couple of issues. I'll get along as fast as I can. If I understood Ms. LeValley correctly, she markets one-third of her cattle through her niche market and two-thirds go, then, to a feedlot where they also get an added value. And then my question to her would be: The two-thirds that she does go to feedyard with, does she go to one like Mr. Sents' where he has a 10,000-head feedyard? But if I understood him correctly, he gets less money for his cattle than the larger feedlots do down the road just simply because of volume.

So how much of this market today is not value-added based but volume based? And right now, today -- yep. And, you know, another thing that's not been talked about at all today is the intimidation factor. Now, I'm a fellow you probably read about that -- Tyson Foods hung a sign on my door "No Trespassing." We beat them in the courtroom. The appellate court overturned it.

They turned back on me and two other individuals in trying to collect their court fees for that.

So the intimidation factor being, a man like Allan Sents -- now, I myself, am a 10,000-head feedyard owner. And Allen Sents, the courage that he takes to go up there and testify today when knowingly they could very well intimidate him and stay out of his yard -- I've had that experience. I've -- I was a livestock market owner for 30 years. And I tell you what, if I would treat one of my customers that way I've gotten treated by Tyson Foods, I wouldn't have a head -- I couldn't have gotten my own cattle to go there.

But what I'm saying is I've had Tyson Foods come bid on my cattle and give me -- give me that five-minute window. And when we talk about all the technology that's out there, there is no technology until about five minutes on Friday afternoon when they finally post the price maybe; sometimes not until Monday. But anyhow, I've been hold that, Either you take this price or you're going to have to go into next week.

Well, if they're customer cattle, I call up the customer and say, Are you ready to sell them or -- yeah, he'll say, go ahead and sell them. I'll call IBP back and they'll say, Well, it's too late now; we're going to put you in the next week. Okay. Then you panic. You sell them, right? He'll call you back the next day and say, By God, Herman, we found room for them; can you load them Sunday for Monday morning's kill? Now, that's a downright outright lie, and I've experienced it. I've been in the feedyard business for 25 years.

So I tell you what, the intimidation factor out there is real. There would be more food lots here, I guarantee you. But there's fear. And I guess I've pushed the -- I've pushed it far enough to where they've had the courage to put a sign on my door. But like I say, there would be more feedyards here if the fear wouldn't be there. So thank you again very much. This is a moment in time.

MR. WEBER (phonetic): Mr. Secretary, my name is John Weber. I am a pork producer from East Central Iowa, and I'm here to share a few concerns that I have about the new GIPSA rules that were handed down in June and how they regard -- affect the pork industry. And I realize that the different species have different issues and different problems, and I respect that. But certainly, some of these rules are very problematic for the pork industry.

I've been a livestock producer my entire life, raising both cattle and hogs in East Central Iowa. For the last 20 years, I have focused on pork production, raising my own hogs, as well as custom feeding for a major packer. I have been involved in just about every marketing contract arrangement and future's head position that you can imagine and have recently entered into a production contract with a major packer.

It is this ability to use these tools that has helped me in my business. It is also allowing my son to take over the business with better risk management. Production agriculture by nature is an extremely competitive business. Regardless of its size, it is competitive. It is competitive right to the very moment the consumer puts food in his mouth.

If my pigs score higher on a premium scale than my neighbor's pigs, I expect to get paid for that premium. If I get up at 2:00 a.m. to deliver those hogs to the packer, I expect to get paid for that service. If a snowstorm is coming, I expect my processor to have the right to pay me more that given day or that given moment for pigs than he made the next day without justifying it with a written cost analysis to GIPSA. The new rules will make it difficult if not impossible to negotiate these types of premiums.

Another rule that is problematic to the industry is that the contract must be long enough to allow me, as a producer, to get back 80 percent of my initial investment or investment that I have to make along the way. That may be fine and dandy for some producers, but not in every case. And on that particular rule, I think the producers should have the option to opt out of that. He may have other plans before that cost recovery is achieved and/or other opportunities. So the producer would need the opportunity to at least opt out of that particular clause.

As I look at this rule from the other side as a pig owner, I'm going to say that if I have to guarantee a producer 80 percent of his initial investment back, I will just go to the building myself. This rule alone will further vertically integrate the industry and eliminate a lot of producers around the country. Combining this with all paperwork, administration, and work with the legal liabilities that these vague rules imply, I am afraid you will achieve a far greater rate of vertical integration than we have at this point in time. Thank you.

MR. BULLOCK: Thank you. I am Bill Bullock representing R-CALF USA. And by design, U.S. cattle producers are currently caught in a classic Catch-22 situation. Cattle producers are leaving the cash market at an alarming rate. They're doing this because the cash market has persistently produced prices too low to cover their costs of production.

These producers have exited the cash market to seek out alternatives. Many have entered alternative marketing arrangements and formula contracts. This remains the only game in town in order to beat this dysfunctional cash market that was persistently producing low prices. And now the U.S. cattle industry is midway in the highly successful and anticompetitive strategy of the meat packers that they are deploying in this industry to capture control over the live cattle supply chain just as they've already captured control over the hog industry and the poultry industry. And they're doing this in a very straightforward manner.

Their strategy includes four steps. Number one, they create an entirely new economic risk in this industry, and that risk is market-access risk. The markets, by virtue -- or the packers, by virtue of their market control, a handful of them are controlling who does and who does not have timely access to the marketplace when these perishable animals are ready for slaughter.

Second step. They then solve the problem of market-access risk. They do this by offering to guarantee access if the producer is willing to sign a contract. As a result, more and more producers leave the cash market. It becomes, then, highly susceptible to manipulation. As the price lowers, the aggregate price of all cattle lowers, including the cash price, all the alternative marketing agreement prices. All of those that are lowered as a result of the dependence for the cash markets continue to be the price-discovery market.

What we need to do now is for USDA and the Department of Justice to take aggressive steps to stop the monopolization of our U.S. cattle industry. They must take the first step and that is to prevent the packers from creating this market-access risk. And then what they have to do is they have to ensure the integrity and the functionality of the cash market. We believe the USDA proposed rule does just that. It addresses the four major affronts to competition, and we support it fully. And I'm out of time. Thank you.

MR. SMITH: Thank you. My name is Mark Smith and I'm president of the Kansas Livestock Association. Our organization was formed in 1894 and represents all cattle industry segments from seed stock, cow-calf, cattle feeders, land managers, and diversified farming cooperations.

The Kansas livestock industry in the state of Kansas is very important to our producers and also the state. We have 70,000 meat production workers in the state of Kansas. The Kansas livestock industry supports over $10 billion of economic impact to our state. So this issue, this topic of this workshop, is also very incredibly important to our state, not only to the producers of the state of Kansas and the members of the Kansas Livestock Association.

We have a lot of concerns with this -- with these rules. We are asking that GIPSA and the USDA do a serious economic analysis of all that can happen with these rules. We believe that there's a lot of vague answers, a lot of vague rules that can have serious impacts to the livelihood of the farmers and ranchers on this land. Our initial analysis shows that it's going to have negative impacts. So as this regulation is in its current form, we oppose this regulation. We believe that it's going to lead to further negative impacts in our industry.

I'm a small farmer, small cattleman. I produce cattle for U.S. Premium Beef. I'm a member of U.S. Premium Beef. I also sell in the cash market. I also sell and formulate in markets on feeding cattle and other feedyards. I believe these rules and regulations being vague are going to have a detriment to my way of living off the land out in Western Kansas. We want you to have serious consideration and serious thought and serious analysis before any of this regulation is adopted. We want to keep this dialogue box open and want to be sure that when you analyze every fix, it's a solution to a real problem before any regulation is finalized. Thank you.

MR. HENNING (phonetic): My name is Tim Henning. I'm from Ranier, Minnesota. I am a fourth- and final-generation farmer from southwest Minnesota.

In the mid-1990s, a neighbor and I bought all the cattle off a ranch in Montana. He took the heavy end; I took a light end. They were basically fed the same ration, same genetics. When it became ready about the same time, a major packer came out, looked at my cattle, gave me a bid, drove over to my neighbor's and gave them a bid. I called John. I said, What did you get for yours? He informed me that his bid was $2 higher than mine. When I called the packer/buyer and questioned him, his comment was, What do you got; a damned hotline between the two places?

After pressuring him, he openly admitted that the reason that John got more than I did is because he -- he'll sell them 20 loads of cattle in the next year and I'll only sell him two. So I joined a marketing group -- oh, let me back up a minute. That was the last time that that packer and I were able to do business. Not by my choice; by his. My cattle were either not what he was looking for or they were -- the bid was ridiculously low or he just was out of the market.

So I joined a marketing group. We formed a niche market on the East Coast with a packing plant there, took the choice roasts and the steaks out and went to high-end restaurants. The balance went into hamburger. That was bought out by another packer. That niche market died. Last week, my marketing group was indirectly informed through innuendos and other means that if we showed up at this meeting, they may or may not be able to buy our cattle in the future.

My question to you is: If these GIPSA rules are not enforced, if the Packers & Stockyards Act is not enforced, where will I be able to sell my cattle? Who will stand up for me if you don't? Thank you.

MR. BACH (phonetic): My name Darren (phonetic) Bach. I'm a hog farmer from Boyd, Minnesota.

I did have a prepared statement, but I'm not going to use it. The reason being Secretary Vilsack, in his opening statement, did such a good job of hitting on all the points I wanted to make, I don't think I could add much to them. The one thing that he did seem to be very interested in, both in his opening statement and some follow-up questions, was about the open market, particularly in hogs. He pointed out that recently, we went below 4 percent on the purchases that were made on the open market. And what can we do on the spot -- do to protect and legitimize that spot market?

If you look on the USDA's data, it shows that packers buy more hogs from other packers than they do from producers on the spot market. There's two problems with that, these packer-to-packer sales. One, they're avoiding coming into the market and bidding for the hogs that they need, which holds on the price. And as Secretary Vilsack pointed out, most of the other hogs are sold on some type of a formula based on that open market price.

The second thing it does is it sends price signals to the pack -- to each other on what they're paying for their hogs. He came out -- in the question session, he asked what can be done to try and help the open market to make it a viable, open and competitive market. My answer is ban these packer-to-packer sales and implement the GIPSA rule.

Now, I hear a lot of complaints from the packer-producer groups about the vagueness in the rules. My question is: What are the rules now if not extremely vague or nonexistent? I mean, they're there but just not -- they're so vague that that's been what the problem is. And that was the directive of Congress, to clarify these rules. If they need some further small clarifications, do it. But implement the rule. Because if you do not, independent hog producers will be gone before this term is up of Secretary Vilsack and the rest of the administration. Thank you.

MS. WILLIAMSON: My name is Dawn Williamson. I'm a pork producer from North Carolina. My family and I run 3,000 sows. We run those sows on two separate farms. We sell pigs on contract with two different integrators under terms that are fair and equitable to everybody.

I want you to understand, gentlemen, that I take a lot of pride in my ability as a herdsman. I also take a lot of pride in my ability as a business person. I take very, very strong exception to the notion that a government agency feels like they have the need to come in and check and approve of my private business contract. As an aside to that, I particularly don't want my business published on the USDA Web site. That's a matter of my private business and not for the world to see.

The proposed GIPSA rule as its written is vague and it overreaches its intent. It's potentially harmful to my industry, to my farm, and to my family's financial future. And I would ask that USDA withdraw it, go back to the table, and try again.

MR. FOX: Hello. My name is Kenny Fox. I'm the president of the South Dakota Stockyards Association. And we represent cattle ranchers and a few independent feeders.

We support this rule. We think it's necessary. We also feel that this ban on packer ownership should be there as a -- what happened to us in 2005 when the Canadian border was closed and cut off the captive supply of the packer, our market jumped several dollars higher practically overnight. We sold the highest priced cattle we ever sold in 2005. And the price of meat was -- choice retail meat was $4.09 a pound. Today, retail meat -- choice meat is $4.49 and we're $100 to $150 less on the price that we're receiving for our cattle. We need -- we need this protection. We need to keep our people on the land. And it's all about a market. If we don't have a market, nothing else matters. Thank you and we appreciate your work.

MR. HERZEG (phonetic): My name is Don Herzeg, independent producer from very rural Montana. And the way this rule is written is vague, and I don't think there's any argument about that. There's a lot of agreement here today that it is vague. And we've had people analyzing this ourselves and even an attorney. What does it mean? We have not gotten a definite answer because no one is sure. And so we don't know what it means to our future.

In Montana, the bulk of the pork production is in the Hutterite Bretheren colonies. I don't know how many of you are familiar with that. These people are as down to earth as you could get and very family oriented. We have no major packers in Montana and we have to ship several hundred miles to the nearest packer. And so contractual arrangements are essential -- absolutely essential for the transportation and marketing of our hogs out of Montana.

In our family, we -- we're cow-calf and we're hogs and we're grain. We've worked literally for generations to develop good genetics in our livestock. And I'm not about to apologize for getting a premium for something that's superior to someone else's product. And I resent the implication that I should have to do that to justify that. That's obvious.

One of the things that was talked about at length here today is the age of farmers and how our -- the aging population is an issue that everyone's concerned about in the farming ag community. You've got to address the inheritance issue if you expect the next generation to be there. I don't -- I don't think it's fair for you to take half of what several generations have worked for in our family in the form of inheritance tax and give it to someone who won't work. Thank you.

MR. DAY: Gentlemen, I'm Louis (phonetic) Day from Valentine, Nebraska. And I'd like to have you folks up there, up front, look out here because -- and I would like to thank all you people that have made the effort -- and you've got to realize most of these people are here on their own dime. Some of them traveled several days. Some of them worked all day yesterday, drove all night, and are here to make a difference for their future and their children's future, and this country's future. Thank you all for making that effort. I think that will bear fruit.

Mr. Butler, they sent you out several times and I've heard you talk. And I guess one reason why I'm here is because I was a little skeptical. You said that you wanted to do your job. And I guess you've come under a lot of fire for trying to do that. And I want you to look here because a lot of these people are here because that's all we want. We want someone that will do their job. And you people that are higher up in the USDA and these other departments, you've given us some kind of nice political talks today. But there's several things that you can do to prove that you are working for us.

And one of them is, is we work very hard to pass country-of-origin labeling. Every one of us here can tell where our underwear is made. But you guys messed up the rules to where our consumers still have a struggle to find out where our beef is coming from. The other thing is, is something you could do right away to prove that you are here working for us is many of us have taken money away from our operations and our family trying to force you to do your job in protecting our herds and our livelihoods from foreign diseases.

With that in mind, what I would like to bring up is we will take care of our own families if we have a fair playing field, and the cash-negotiated fed cattle is a key to that. And if you don't believe me, you just go buy a pen of cattle, feed them out, and try to deal with that handful of packers and let them know who you are. And, gentlemen, you will get an education of why we're all here.

I want to highlight the seriousness and the amount of money that's at stake here and why we're all here and why we are having trouble feeding our families. Do you realize that in Nebraska alone, for every $0.50, that this market can be controlled? In 2007, Nebraska alone fed out 5,130,000 head. If they average 1,250 pounds, that's $6.25 a head. But every $0.50 is 32 million. That's real stimulus.

The other thing is we had -- in 2003, the good Lord's given us some hints of the opportunity that's there because of BSE being found in the Canadian cattle herd. The good Lord showed us the opportunity. I'll go further on what Kenny said. It's documented proof. I've got records at home from the extension agent in Nebraska. In five months from the time they lost 5 percent of the cattle used to control our cash-negotiated cattle, Nebraska increased $25 to $100. Thank you.

MR. ACEY (phonetic): Hello. I'm Gary Acey, a pork producer from Illinois. I have been around hogs all my life. In the past, I've produced hogs and I've had contract growers who fed the hogs for me. In 2008, I made a decision and I sold my last hog. And I built a new wing to a finished building and began feeding for another producer.

Because of my past and present experience, I understand both sides of contracting and feeding. There are many factors that go into consideration to determine the feed that goes to the contractor, such as the type of building. For example, a weed-finish building, a feeder-finished building, large pen, small pen, tunnel ventilation or natural, the age and location of the building. Also, the skills of the person operating the buildings, such as skills for caring for small sick animals and sorting, and skills in setting the light-weight animal and even-weight animals to market. Another consideration is the market contract -- market for contract spaces at the time the contract was signed.

With the proposed changes to the Packers & Stockyards Act that require written records for a difference in pay to contract feeders, if all these things have to be verified, it would create a great deal of paperwork that must be kept; most likely, individual records for each professional contract. The way in which the new ruling is written is very general and the owners of the hogs do not know how the rules will be enforced. And with this fear -- this, I fear the prices for many contractors' spaces may go down while a few may go up. Thank you.

MR. KAZAR (phonetic): My name is Bo (phonetic) Kazar. I manage a feedyard in the Texas Panhandle. I'm also a shareholder in that feedyard. Our group owns a major interest in a small cow-kill plant at Booker, Texas, Preferred Beef Group. Preferred kills 160,000 to 180,000 cows a year.

As I interpret the rule -- or as I understand the rule, at the point that I become defined as a packer because of that ownership, I'll have to send 80,000 cattle to our packing house, displacing 80,000 cows. And that's going to detrimentally impact their operating year. Small and large producers are going to be damaged and hurt because of that. I maintain and have secured certifications for verified natural NHTC source-and-age verified cattle. I sell cattle to five packers. I'm not limited in what I can do. I negotiate most of those processes. I do -- I do sell some top-of-the-wheat cattle. But I have a choice and I choose to do that. And I feel like it's good for my business; good for me personally.

The -- what I see going on here is government -- the government's attempt to interject themselves in the free markets by telling me when and how I can merchandise my cattle. They mentioned several times the broad general scope of the rule is going to open the door to lawsuits. It's an opportunity for trial lawyers. It's going to really interfere with our business. I see it a lot.

I have just a few more points. The --

MR. STALLINGS: If you can go quickly, sir.

MR. KAZAR: We can -- it goes beyond the scope -- the directive of the 2008 Farm Bill. It goes against court rulings that have already been documented. When we can -- when we can freely sue because we feel like we've been mistreated, it's going to -- the price differentiation based on value is going to go away. We're going back 30 years.

And if you look at -- if you look at a chart 30 years ago, we're in a declining demand for our cattle.

MR. STALLINGS: If you could finish up.

MR. KAZAR: On behalf of my company, my

customers, our consumers, both of the United States and abroad, I urge you not to pass this.

MR. FERRELL: Please try to stick to two minutes.

In order to stay on schedule today, we -- we're going to run for about another ten minutes. If you are in line, what I want you to do is, when we pick up again in the next public testimony part of today, go ahead and get in line and pick up right where you left off. And so we're going to go another ten minutes so we can start with the other panels. But we're going to continue to work through as many folks as we can. And again, I encourage you to please stick to your two minutes.

MR. KENNING (phonetic): Thank you. My name is Jerry Kenning. I'm from Imperial, Nebraska. My father started an operation that my grandfather began. The thing that hasn't been mentioned here is change. I no longer ride in the boxcar to Chicago with fat cattle. My father hauled cattle to Denver, Colorado, to try to get a higher dollar. I today do not use the cash market. I bid my basis, I bid my grade-yield premium, and I bid my source-and-age premium. And then I have from the time I purchase the cattle -- or, in actuality, I have an opportunity before I even purchase the cattle to sell them with price discovery that opens at 8:20 in the morning and closes at 12:30.

We -- I have had to change. My son is home today. I expect him to make some changes. This is not the same industry that we had 50 to 100 years ago. The thing I would ask you -- my point is: Please do not raise our cost of production in regulatory management. I'm going to use the EPA as an example. Their regulatory things that we had to comply with raised our cost of production. Beef today is the highest-cost protein that's out there for much higher costs than other foreign countries. Please, when you read this, realize it's vague and leave us alone. The tools are out there today for us to manage in the way things work. Thank you for this opportunity.

MR. ENGLER (phonetic): Thank you. My name is Paul Engler, and I am a founder and chairman of Cactus Feeder, which we have a one-time capacity of slightly over 500,000 cattle. We turn that inventory in excess of two times a year, so we market over 1 million head of cattle.

Folks, I celebrated my 81st birthday this week. Thank you. I'm still going at it strong. I'm very, very obsessive about not only the industry today but the future of the industry. I started -- a borrowed money and bought my first cattle when I was 12 years old. If you subtract 12 from 81, see if you come up with 69 years of experience in the business. I've been in every sector of the business from cow-calf all the way through cattle feed, even meat packing. I also have experience in foreign countries in -- both in ranching and in cattle feeding and meat packing. So I think I would qualify as an experienced speaker.

Now, when I studied this rule, I read it and reread it and reread it. And I couldn't believe where -- what I was reading insofar as what I thought the impact that that rule is implementing in our industry today, what harm would result. So I got to thinking a little bit about it. I'm going to run a little scenario by you. And, look, it's fiction right at this point.

But if there was a terrorist organization that wanted to do irreparable harm to our industry -- irreparable harm -- instead of going out and dropping a virus, say, for instance, in a feedyard -- FMD and so on and so forth -- they're going to attack the industry from an economic standpoint. And if you could look at a scenario where the USDA -- and more specifically, GIPSA's offices -- where infiltrated by these terrorists, and what kind of a plan that they would come up with to do that irreparable harm to the industry.

Okay, okay. Obviously, I'm not -- all they'd have to do -- in all that territory, all they'd have to do is follow through with the plans that this rule is calling for. So, folks, be very, very careful. Don't ask for a little bit more than what you might expect you're going to get. If you go back in history --

MR. STALLINGS: Mr. Engler, if you could finish up.

MR. ENGLER: Okay. I suffered through -- thank you very much. I've suffered through the price freeze of 1972, suffered through --

MR. STALLINGS: We have a lot of people in line that --

MR. ENGLER: Okay. Well, thank you very much. I thought perhaps my age might make me get a little difference on the deal. Okay.

Folks -- folks, I've been in tougher places than this. I can assure you that. Okay. Thank you.

MR. SMITH: I wrote Dudley Butler a letter.

My name is Johnny Smith, and I'm in the cattle business through an auction market and ranch. For 15 years, I've led the fight to get the big major corporations to obey the Packers & Stockyards Act. All we want is fair treatment.

In 1980, a thing called deregulation came into effect. The effect, we were told, was to take the government out of agriculture. What it did was turn a bunch of greedy monster corporations loose on unsuspecting producers, both in the packing industry and the grain industry. In the fat-cattle industry, they have four packers that control 90 percent of the fat-cow industry. Number one is Tyson with 11 packing plants, killing 35,000 head a day. Cargill has eight packing plants, killing 28,000 head a day. JBS has eight packing plants, and they kill 25,000 head a day. National Beef has three packing plants and kills 13,000.

Why should our industry be controlled by, essentially, four entities? This has taken all of the competition out of our industry. Why should one entity be allowed to control more than two packing plants? This destroys all competition because four entities know how to cooperate with each other in a shared monopoly. What this has done in the past 30 years has almost destroyed our cattle industry. The only competition we have in the cattle industry anymore is individual feedlots and individual cattlemen feeding livestock. This is not the way in the fat-cattle industry. There's no competition.

The same goes for elevators and grain companies. The huge grain companies are continually ripping off farmers. For example, in the winter-wheat industry, there's huge deductions on protein if it's under 12 percent. This year, our crops were very good. But the protein is low, so the elevators take advantage of that and beat the price back tremendously. Yet can you tell me anywhere on a box of cereal that it says "low-protein grain"?

Over the years, we have continually tried to make the packers and grain companies adhere to the Packers & Stockyards Act. In 1980, deregulation came in and the P&S Act was thrown into the garbage. Since 1921, it was the law of the land. It's very similar. The P&S Act is made up of right is right and wrong is wrong. Yet in the last 30 years, USDA and the attorney general -- neither one has done a damned thing to try to control the monopolies in the agriculture industry.

Isn't it about time that Americans stood up for America? Our whole country has turned into a corporate wreck. When Dubai tried to buy our sea ports, there was a loud outcry to keep them owned by the U.S. Then we found out that they were owned by the British already. Our cement plants are owned by Mexican companies.

MR. STALLINGS: Mr. Smith, we're trying to be fair here.

MR. SMITH: The Vietnamese own our railroads.

Just one second, my friend.

The Chinese outsource most of our industry.

And most recently, a Brazilian company, JBS, was wanting a captive supply, over 1 million head of feeder cattle. Why should these foreign countries be allowed to control our industries that are so important to our nation's livelihood? These rules are going to help our industry, so we ask you to be past the rules. Thank you.

MR. STALLINGS: Thank you.

MS. VALDEZ: Good afternoon. My name is Olive Valdez, and I'm from a small community; Antonito, Colorado. We're 5 miles from the New Mexico state line. My husband and I were cattle producers. We were missionaries and, in a sense, because we were going to produce the best product anyone had ever seen. Therefore, after 32 years of selectively breeding, artificial insemination, and everything you could think of, we came up with a fat-free beef product. Fat-free. We had the independent analysis to prove it.

Okay. So we had a loan with Farm Service Agency. We went into the agency, We need to continue our loan. And they said, Well, we're not going to be able to carry that loan any longer for you; you're going to have to go to the bank and get a guaranteed loan. Well, so we had the 4 percent loan. We figured it couldn't be too bad. We went to the bank and they told us, Well, we'll give you a guaranteed loan, but it's going to cost you 14 percent. Well, you know, that was when the parity for agricultural products was at 39 percent. So this is the reason for my message today.

We're involved in a lawsuit, Garcia versus Vilsack. 67 percent of Hispanic voters supported President Obama. We were proud to do so. Now, as a result of years of discrimination, we're defendants in a lawsuit against USDA. We have been offered a settlement that is a tribalization of our damages. This proposed settlement is one-half of that awarded to the black farmers.

Our suffering is real, and it's devastating. We've lost homes and family lands due to USDA discrimination. Injustice is injustice no matter where or when it occurs. Please remember us. We stick up for you when you needed us. Please stick up for us. Correct this injustice. Thank you.

MR. FERRELL: I think we'll do two more. And then what we'll do is we'll pick up is -- when we pick up again for the next public testimony part of today, just go ahead and just come right back where you were. We want to -- we want to hear from you that were already in line, but also want to hear from as many people as we possibly can. So we're going to do two more. And then, to keep on schedule, we're going to run through our -- do our two more panels and then go right back into listening to your comments.

So we'll pick it up over here.

MR. SHERINE (phonetic): Hello. I'm James Sherine from Southwestern Minnesota. I'm a livestock producer -- pork producer from Southwest Minnesota.

For 25 years, I've worked on changing my operation to improve with the industry. And it's taken a lot of work. It's taken a lot of money. And one of the ways that I've done that is, is as I've grown in livestock, I've found people that will build barns for me. And it keeps them in business, as well as myself. They share the barn risk; I share the livestock risk. As I went through time, we decided we needed a better marketing plan. So we went to a group of people from midwestern United States and we went to work and we built a plant called Triam (phonetic) Foods.

Today, I have part of my pigs that go to Triam Foods; part of them that go to three other packers in the upper Midwest. What I find out today is, guess what? I'm the dirty packer. According to the GIPSA rules that are written, I'm the packer that has to turn around and say, You know what, just because I don't have money enough to buy all my shares and put all my pigs in Triam Foods today, I either got to sell out of Triam Foods or reduce my pork production.

And the other problem that I have with the GIPSA rules, if my livestock people that -- the young farmer that builds the barn does improvements to that barn, now I must guarantee that I'm going to pay 80 percent of that back to him in some form or fashion, the way I read the GIPSA. Well, guess what, guys? My banker won't allow that to happen. He's going to turn around and say, Dave, either you -- either you build your own barns and take that risk, because then you have equity risk as you pay for them, or get out of the business; you haven't got the money to follow through.

So please, guys, as you look at these GIPSA rules, keep pork out of it. It's working well the way it is. I've changed and done everything I could, so leave us alone in pork production. Thank you.

MR. GREEN: I'm Joel Green, a dairy farmer from Kendall, Wisconsin. And as a dairy farmer, we're major contributors to the cattle industry. And when milk prices are low, you try to supplement income by selling cold cows and calves and heifers. And in doing so, you know, we're major contributors to the beef check-off where, in the case of a dairy animal, they could collect, you know, three, four, five, even up to six times off a single animal when it's sold on the market.

Secretary Vilsack was in West Salem, Wisconsin, July of '09. He commented that most of the world or much of the world pays anywhere from 25 percent to 50 percent of their income for food. But here in the U.S., it's closer to 10 percent and that we prefer to keep it that way. At whose expense? Farmers? Ranchers? Consumers can no longer afford this. The time has come for USDA and DOJ to decide whose side they're on. Will you continue to allow corporate America to run rough-shot over everyone or will you come out on the side of farmers, ranchers, and consumers and at least allow us cost of production, plus reasonable profit? I can't help but feel that farmers and ranchers are used as pawns in fixing the economy. This will fail. Rural America will be dead.

In 1962, the committee for economic development released an adaptive plan for agriculture. Kenneth B. Bolding, an economist, Department of Economics, University of Michigan, member of the Research Advisory Board, stated the following: The only way I know how to get toothpaste out of the tube is to squeeze. Likewise, the only way to get people out of agriculture is to squeeze. If the toothpaste is thin, you don't squeeze very hard. On the other hand, if the toothpaste is thick, you have to put real pressure on it.

If you can't get people out of agriculture easily, they're going to have to do farmers a severe injustice in order to solve the problem of allocation. This has got to stop. You have to stop squeezing. You've got to wonder how much of this is by design --

MR. STALLINGS: Sir, if you could finish up.

MR. GREEN: Absolutely.

-- and how much is just mere circumstance. But implement the GIPSA rules and enforce Packers & Stockyards. Thank you.

MR. FERRELL: We will now go ahead and start our next panel if our panelists for the next panel can come ahead up here and get started.

(A recess was taken from 1:45 p.m. until 1:47 p.m.)

MR. WEISER: All right. We want to have two panels now that will put into perspective some of discussions we've had up until now. With all these hearings, as folks have articulated it, is to get our arms around the dynamics in a comprehensive thorough-going manner. To do that, we put together a panel of diverse and extremely accomplished individuals across different market segments and valuable expertise.

Sitting next to me here, Libby Cook. Libby is the founder of two supermarket retail chains: Wild Oats, found here in Colorado, and Sunflower, also found here in

Colorado. It's great that you came here to join us to share your perspectives.

Next to her, going this way, is Jerry Born -- or Jerry Bohn, who is a -- owns a feedlot -- is that right -- and comes to us to share his perspective. We appreciate that.

And, please, if I mispronounce your name -- Gilles? Is that right?

MR. STOCKTON: Not quite.

MR. WEISER: Not quite.

MR. STOCKTON: Good try.

MR. WEISER: Come on.

MR. STOCKTON: Gilles.

MR. WEISER: Gilles.

MR. STOCKTON: It's French.

MR. WEISER: Gilles Stockton operates a family cattle and sheep ranch. He comes to us from Montana. Like some other people, he is pursuing his craft with the benefit of an advanced degree -- in this case, a master's degree in animal science from Montana State University -- and has been a leader in the Western Organization of Research Council, among other efforts.

And at the end there -- I'm trying to see here, is that Clem? Clem Ward -- for those of you who don't know, Clem is one of the leaders in agricultural economics. He is at Oklahoma State University. I think -- are you an emeritus now or --

MR. WARD: (Nodded.)

MR. WEISER: It seems like he was there for a long career -- 31 years -- focusing on the broad changes in the industry. We're so glad to have you here with here today.

Sitting on my right here, Mark Lauritsen? Is that right?

MR. LAURITSEN: (Nodded.)

MR. WEISER: Mark Lauritsen represents a number of the folks here in yellow shirts, as you can see; those who work in sort of the other side of the business helping to pack the beef. There's a lot of workers employed in that. He has a valuable perspective to offer in terms of the commercial workers.

Mark Greenwood, another perspective, from AgStar Financial Services; lending to ranchers. We appreciate you joining us, Mark. Mark comes to us from Montana; is that right?

MR. GREENWOOD: Mankato.

MR. WEISER: What's that?

MR. GREENWOOD: Mankato.

MR. WEISER: Mankato. All right. Great.

And Armando Valdez is another producer who joins us on this panel. He is also from Colorado doing a family farm with cows and calf. We appreciate you coming to us. I should say for those here, Armando is a graduate of Colorado State University.

MR. VALDEZ: You've got to play the crowd, right?

MR. WEISER: That's right. Absolutely. We appreciate you joining us.

Bill Heffernan is, like Clem, one of the giants in the academy. He got a Ph.D. in rural sociology and has been, for quite some time, at the University of Missouri. It's great to have you here with us, Bill. Thank you for joining us.

So as I said, I want to start off with the broadest picture. There is, as has been discussed, increasing concentration in cattle and hog industries. I guess from the two academics who bookend us, let me ask you for your perspectives.

Clem, how would you describe the situation as it evolves?

MR. WARD: First of all, I think we all know that what's happened in the packing industry and retailing industry is not unique to our economy. It's pretty much happened throughout most of a lot of manufacturing industries and other sectors of the economy.

Concentration's increase has come about and -- typically comes about from two sources. One's internal growth of the firms themselves and the other is through mergers and consolidation. And we've seen a lot of both of those things in the pork-, beef-packing industries and in the retail industry.

I'm more familiar with the packing industry, so I'll pretty much concentrate on that. But back in the '70s, core firm concentration of the four largest firms had about 25, 27 percent of the market share. And in the hog industry, it was about 32, 33 percent. Then through the '80s, we had some very, very sharp market structure changes. We had a number of plants that were not profitable who closed their doors. Some of those were purchased by other packers. Some were closed for a time, came back with different labor contracts. Some of them were expanded. But the driving force at that time was to try to become more efficient.

And so there has been a couple studies at that time. There have been some since then, all of which suggest there are significant economies of size in the packing business. So the larger you are, the lower your average costs are. And that was the driving force. Along the way, we had some mergers and acquisitions that were in conjunction with growing those plants and some that may have just been because they thought there were some multiplant economies that they wanted to achieve.

MR. WEISER: Clem, you said, on the packing side, there's some economies of scale being bigger. How about on the ranching side? Are there economies of scale there too or do they have a smaller --

MR. WARD: Some, but much less. Most of the research has been fairly consistent that there are some economies up to about 1,000-head cow herds and then may tail off pretty sharply.

MR. WEISER: So one of the suggestions we've heard -- and let me actually turn the suggestion to Bill to analyze a little bit -- is that a greater level of concentration at the packers and stockyards level has actually tried to put pressure on ranchers to get bigger. Is that true, do you think?

MR. HEFFERNAN: Well, we've heard several times that they push -- that they push, essentially, for the larger ranchers in terms of giving them preferential treatment and such.

But I want to go back for just a moment, if I might, to the concentration. I got involved in looking at this concentration, and I borrow from the economists back in the 1960s who were talking about the -- what percent of the market share did the largest four firms have. And they said -- their view at that point -- and these were primarily institutional economists back in those days -- and that's people who, you know, will take a little bit of sociology or psych or political science or whatever. They're sort of the Renaissance people. But the -- they said when four firms had more than 40 percent of the market share, you begin to lose some of the benefits of competition.

I sort of came along a little later -- along in about the late '60s -- and I took sort of that and went back to what's called small group studies, a sociological theory that basically says that when you have four social units left sort of in a competitive market -- and I'd like you to think about board games that families play and so on if -- because, in a sense, they did things like this in terms of their experiences -- what they found was when you had, like, nine, ten players, that was really pretty competitive.

But as you move back toward about four firms, what you found was they started acting in concert. They would look at one another, what move they made, and then they would adjust their behavior accordingly; therefore, they see what -- look to see what somebody else did, if they raised or lowered the price, whichever way it happened to be, and then they would do the same. So in a sense, what's happened is when we got down to that CR4, once it started moving over 40 percent -- and most of them are well worth 50, 60 percent, up around 75 percent or more, as you heard -- when you have four firms operating in concert, I call it a near monopoly. And so that's one of the problems and why we've concentrated early on on the CR4.

The second point I want to make, it's not just the concentration of the four firms. That's what we call, you know, basically the horizontal integration. It's the food chain that is now the supply chain. The food supply chain is lined up so that basically you have maybe three or four dominant players starting all the way back with the seed, or even the gene for that matter, and they control either through ownership or through what we call strategic alliance -- that's joint ventures, long-term agreements and so on -- all the way from the seed down through the supermarket. I don't have time to give you an example, but that's another way.

And in a sense, you end up -- and I'm a member of the board of directors of the Ozark Mountain Pork, which started about eight, ten years ago trying to find a market for our -- what we call "Farmers of a Middle" -- and we ran up to that problem. In a sense, you've got to compete with the whole supply team. How do you break into that? So all I'm saying is it's really hard to break into the system.

The third thing I want to do is do a quick flip on that and say, but those big firms we've been talking about in the CR4, they're not immune to getting pushed out either, or thrown out, as the case may be. And I think we need to keep that in mind. In a sense, it's sort of like they are running on a treadmill and they've got to run faster and faster. And if they stumble somewhere along the line, they're gone.

And since I'm in Colorado, I'll use the Albertson's model that was -- they were a third-ranked retail firm about five years ago. What happened to them? Those of you in Colorado know or have been in Denver and so on enough, looking at those old stores that didn't get picked up right away. What happened was Safeway, which is down in seventh place, teamed up with an investment firm and basically it was a hostile takeover.

That was a firm that was operating fine and dandy. You read the trade journal. They were doing a good job. And they woke up one morning, and that management team was history. Now, that really isn't a very efficient way to run things. And what they did was move Safeway up to third place. The other one skipped up a little bit and life went on.

MR. WEISER: So people are going to have questions, I suspect, as we go along. There should be volunteers in green shirts. If you want to write your question down and give to one of them and get it filtered up here, I'll see if I can intersperse them in.

That gets us to the retail. And that, obviously, is another piece of this equation. Mark, maybe you can offer a few thoughts. How is retail and retail concentration more specifically impacting on the whole supply chain?

MR. LAURITSEN: Well, at first, I -- I think we need to look at this -- I want to point something out here this morning before I answer that question. Attorney General Bullock described what's going on today as putting packers and producers in the same room is like establishing a firing squad in a circle. It kind of got a chuckle out of the group. But then I got to thinking about it, and I've just got to make this comment.

I have the honor and the pleasure of working for a union that represents the hardworking men and women that work in the slaughterhouses around this country: beef, pork, chicken, and all food processing. And when you guys establish that firing squad, we're the folks you put smack dab in the middle of it.

Now, I say that and I say this to my friends on the producer side, those 250,000 people that we represent, they need you in the supply chain and they need the producers to produce a good herd. My friends on the packers side, those 250,000 people that we represent, we need you. You supply the jobs. So in this firing squad, you put us in the middle. And we've kind of created this family fight, and we forgot to look at this whole system as a food chain or supply chain.

And if we try to adjust these problems by looking at them strictly from the packer back or from the producer forward to the packer, we miss out on the most important piece in that food supply chain. We're going to treat a system, but we're not going to get to the disease. And I'm talking about the retail side. There's been consolidation in the food supply chain. It's going on right now and it's going on rapidly in the retail sector.

Right now today, Wal-Mart controls 23 percent of grocery. Now, you may not think 23 percent seems like much. But think about what's been happening since the early '90s when Wal-Mart's growth in the grocery store sector has taken off and expanded. One in five retail dollars in America is spent at a Wal-Mart store. Wal-Mart controls 44 percent -- excuse me. Of 44 percent of the markets, Wal-Mart controls over 30 percent of grocery store dollars. Wal-Mart has more retail stores than the next five closest competitors combined, and it does more grocery store -- or grocery sales than its next three biggest competitors.

So what has all this caused over the last number of years when this concentration took place? Well, since 1990, if you look at the consumer dollar spent on beef, the retailer took $0.33 of that retail dollar. The rest of it was passed back to the supply chain. Today, in beef, the retailer is $0.49. That's a dramatic increase. In 1990, in pork, the retailer kept $0.45 of that consumer dollar. Today, in pork, the retailer's keeping $0.61.

Now, here's the thing. The people that I represent, the cut that they get comes from what the packer keeps. That's been constant. It's been around anywhere, if it's beef or pork, from 8 to 14 percent. But it's been pretty constant during all this time. There's a way to address these needs. But again, I want to challenge everybody to -- let's face the problems we have and go at it from the total picture and looking at the retailer. And here's really what we're talking about.

I've talked to people from R-CALF. And they would tell us that if one penny was passed back down through the supply chain from the retail side, that would make a dramatic increase in the farmer and the rancher's lives; one penny from the retailer. We've done our studies at the UFCW. One penny takes the average packing U.S. worker's wage from $13.50 to $16. Those kinds of numbers affect our communities. They improve our communities.

So what are we talking about? $0.02. $0.02 changes the lives of everybody in this room. My challenge to you and what I would say to everybody is: Let's look at where that $0.02 lies. I think it lies upon the retail and -- and it's the consolidation on the retail side that I believe is forcing consolidation all throughout the supply chain in the food industry.

MR. WEISER: So, Libby, you have first-hand experience in the retail sector. I guess I'd ask you to analyze those markets generally with what's been said and also specifically to whether these are local markets, national markets, or both. How would you explain to people who were trying to understand the retail side how things are evolving?

MS. COOK: Well, it's interesting because I think, you know, not -- no industry is more competitive than the supermarket industry where we're looking at 2 to 3 percent net profit margins. So this is -- this issue with the small farmers and ranchers is -- reminds me of us back in the early supermarket days with Wild Oats Markets trying to compete with the large supermarket chains like

Safeway, Wal-Mart. And I think we did so effectively by creating a niche market and educating our consumers on local organics. And I think that's an important lesson maybe for local farmers, small farmers and ranchers here today.

I would take issue with the margins that Mark was talking about. Typically, our margins in the meat and in part of our business are some of the lowest; more like 20 percent with a maximum of probably a 35 percent margin. And I think we are trying to not only promote, but really help local vendors and manufacturers succeed. And we highlight them and really try to focus on helping that small farmer or rancher succeed.

And I know, for example, Whole Foods now, after the acquisition of Wild Oats, works with, for example, Panorama Beef, an organic and natural beef supplier up in Wyoming that's main -- raises their cattle on Indian lands. And so they just recently started working with this producer about a year ago. So, you know, I think we are, in the natural foods industry, always looking to help promote the alternatives, smaller, more high-quality rancher that's producing a high-quality product.

MR. WEISER: So I want to go, if we can -- I think, Armando, you would fit in this category, raising high-quality product. Have you had success working with retail outfits like Whole Foods? What's your experience been?

MR. VALDEZ: My experience working with some of these retailers, especially the organic natural markets, if you're a smaller rancher or producer, it's much more difficult. Unless you come with 200 head, they don't even want to talk to you. So you try to look for other options and other retailers; other retailers who share your values, especially as a small rancher or in producing that product and who want to work with you. But if they don't share those values, it's about some of those efficiencies, economies of scale. They want that product in bulk, as many as they can get. And if you're not that size, then there aren't that many options available.

We tried to market to Whole Foods in the past, and they told us we just don't have the numbers. And I don't consider myself a small, small producer. We have 300 head of cattle. And they still wanted more. So we've looked at marketing to other co-ops to where -- in the earlier panel this morning, looking at bringing different ranching families together, we could finish our own cattle and sell direct to the consumers. So that's another option that's out there.

In our discussion today, though, we talk about change, moving forward, what are we going to do for the future. It's almost like we're going back in time. Think about 1920, 1921 when the original Packers & Stockyards Act was coming out. They were probably having conversations dealing around some of these same issues with the packer concentration. And there may be -- because ranchers and farmers are never able to retire, there may be a few still around who remember what was happening in those days and could actually give some testimony from that.

But they were successful in creating more competition, reducing some of that concentration in the market. And look what happened. As one of the gentlemen earlier in the testimony mentioned, in 1980 we started seeing deregulation and here we came back with increased concentration. I do agree with Dr. Ward, down at the end, about the economies of scale and the efficiencies. There are significant efficiencies, I think, when you do have the consolidation, as well as vertical integration.

But efficiency is only one part of that equation. What happens with your economic power and what happens with economic freedom? We talked about some of those freedoms this morning, as an individual producer, being able to take my product, find competitive bids, make profitable margins with my product. If we're focusing just on efficiency, we're -- and consolidation is really taking economic power and putting it in one place -- what am I left with? I'm not left with much economic freedom.

MR. WEISER: So I want to go to Jerry and introduce someone who we've not talked a lot about today, which is the consumer and how the consumer fits into this equation. Some have posited that the consumers have focused on getting cheap food and that demand for cheap food has kind of reverberated through the system. Is that a suggestion you find therein or do you have other translations of consumers are approaching their food?

MR. BOHN: I think that in our country -- you know, I believe that our government has a cheap-food policy. I think that they want to keep food cheap so that the majority of the people -- the 97 percent who are not in agriculture -- are able to produce food at a low price. I think consumers, though, become more discriminating. And there are opportunities in the markets today.

We found by our involvement with U.S. Premium Beef that beef consumers are willing to pay a higher price for a higher quality product and more consistent product. And so the system that we're involved in and would be similar to several other systems that are involved -- that other producers are involved in focusing on producing a higher quality product that's consistently good every time they eat it. And to do that, we have to do some things differently than we've done in the past.

And I want to speak briefly here for a minute. We're all here today because we don't think we're getting enough for our product. Nobody's talked about how we -- to build demand to sell more beef at a higher price. We're all worried about packer concentration, their cheapness. And we haven't heard a word about growing demand and building demand. Why in the world would we not do that? Let's get Japan open 100 percent. Let's get China open 100 percent. Let's grow demand.

All of you will benefit if you sell more beef at a higher price. That's what you're here for. Government entities also tell people they shouldn't eat beef. Look a food pyramid. Don't eat meat. It's at the point of the pyramid. Help us sell beef. I think that's what the government can do. Instead of telling us how to sell our cattle and how to market them, let's sell beef. Let's increase demand. The consumer is there. They want our product, but we've got to provide it for them.

MR. WEISER: Gilles, what's your -- what's your perspective on what consumers want and how to sort of achieve the sort of premium opportunity that I think both Libby and Jerry mentioned?

MR. STOCKTON: A growing demand, huh? Sell more to Japan. Sell more to China. We can't raise enough to feed the people in this country. The reason we can't raise -- the reason we can't raise enough to feed the people in this country is that the people who do the hard work out in the land and the people who work in the slaughter plants are not getting their fair share of that consumer dollar.

I don't need JBS or Tyson to tell me how to raise good cattle. I raise good cattle. I raise the best cattle. I've retained ownership. They're fed in the top 10 percent, you know, in the nation. They're not -- and there's nothing special about, you know, me. I'm not smarter than my neighbors. They know how to raise cattle. They know how to raise cattle better than I do. You know, so we don't need a top-down corporate board of directors telling us what to do.

I got concerned about this issue in 1987 when a poultry producer came out to Montana and he talked to us. And he told us what happened to him in the poultry industry. And he begged us, he said, Don't become like me; don't become a serf of my own land. And I don't want to be a serf on my own land. I want to be independent. Could I think independent farmers and ranchers selling in a competitive market can compete with anybody of any size, whether they're small producers, 1,000-head cattle producers, 100,000-head feedlotters? You know, there is very little in the economy of scale, and we can compete if we have a fair market.

Now, the cow-calf section of agriculture is a little bit unique in that it is the only part of agriculture that still markets through an auction system. And in recent years, we've been marketing more and more through video Internet auction systems. And they work very well. They're a very inexpensive way to, you know, market our cattle. And we market them through forward contracts.

Now, if you could make a forward contract for fall delivery of feeder calves, you sure as hell could make a forward contract for, you know, two- or three-week delivery of fat cattle. That's -- there's no big trick here. All we need to do in order to restore competition in the cattle industry is require that the beef packers buy out in the open, in the public.

MR. WEISER: So, Gilles, you've anticipated my next question. I will turn to Clem and ask him, which is, How are the markets for the buying -- be it spot market, exchanges, forward contracting -- evolving? And how do you analyze their current dynamics?

MR. WARD: And I think we've talked about some of this. I mean, that's -- and I guess I'll do it. In

1993, I think, on the hog side, 87 percent of the hogs sold were from cash market, we've said many times. Last year, that averaged 6 percent. Now some weeks it may be down below 5 percent. On the cattle side, in -- in the late 1990s, we were at about 60 percent or so in the cash market. Last year, on average, it was about 35 percent. So we have had an increase on other kinds of marketing arrangements; the so-called AMAs.

There's been some people, obviously, not very happy with a formula price to the cash market. I know myself and other economists have said for a long time that people who are formula pricing ought to try to be looking up at the wholesale level; something that a packer would try to push up as high as possible rather than tying that price to a price that a packer would try to push down as much as possible.

But there's problems in doing that. There are a few people who are, both in the hog industry and the beef industry, trying to contract, trying to formula price to the wholesale market. There's been an increase in hogs and cattle the last ten years in forward contracting where you're pricing to basically the future market, as somebody alluded to in the open-mike session this morning. So people are looking for other alternatives. And as we get thin markets, as I think will probably be mentioned later, some people are voluntarily trying to support that market by marketing a part of their hogs or cattle through cash trading and, in part, through contracts.

MR. WEISER: Armando, you are having to face this question on a regular basis. How do you go about marketing your cattle?

MR. VALDEZ: You're trying to look for as many options as possible for the best price. It comes down to profitability and looking for the option which gives you that biggest margin or greatest margin out there. I've done -- or worked through several different marketing options all the way from the spot-marketing cash markets, trying to inform buyers there at those markets, you know, know the quality of the cattle, some premiums such as the natural aspects that we keep with our cattle, also looking at forward contracting and other contracting markets. And it's difficult.

I don't know if it's the region of where I'm at. In South Central Colorado, we're a little more isolated. We do have to ship those cattle a lot further away than someone who has, you know, a feeder right down the road. I don't have one probably within, you know, 150 miles. And so I'm trying to see how I get those cattle out at the best price. And so it is a challenge finding options a lot of times, and it's a lot more work on my part.

There was a gentleman this morning on the panel who mentioned, you know, we're out there trying to ranch, farm, produce the best-quality product. And then we're asked then, you know, to market it. And then we're asked to make these changes of what the buyers want. And it's constantly more pressure being put on a producer. It's like kicking a man when he's down.

MR. WEISER: I want to -- before I come back to this, I want to put another piece of this equation on the table, which is the credit side that Mark deals with.

One suggestion we've heard is that part of the push towards the forward contracting or captive supply, as some have called it, is they need to have those contracts to get credit. Mark, how do you analyze that issue?

MR. GREENWOOD: You know, I kind of feel like the cold cow here or the cold pig, being a lender. And I don't know if I was the only one crazy enough to be on a panel with this many producers.

MR. WEISER: I think Libby feels that way, being a retailer on the panel.

MR. GREENWOOD: Yeah. Libby, we should have sat by each other.

And my first thing is I work almost exclusively in the swine sector. I -- you know, there's not a lot of cattle in Minnesota. So my knowledge base is much more on the swine side. When we look at marketing agreements in order to -- and to get access to capital, it had been a driver in order to get access to capital as we've -- we went through it. If you kind of look at the volatility in the marketplace that we've seen over the last 13 years, just -- even if you look over the last 12 months -- we went from -- I think a producer talked about $105 a pig last August, where today we're making $160.

Now, most of the marketing agreements, per se -- and the other thing I would say as a lender, we continually learn. And I think we have to learn kind of through history. The thing that I talk about with our producers is -- you know, we have a relationship with our producers. We work very, very hard on making sure that we try to make our producers profitable at the end of the day. Because if they go out of business, that's not good for us by any means. So we want a viable industry going forward.

So part of the things that we talk about with marketing agreements, they're -- they are pretty much shackle space where you have an alignment with the packer that gives you, you know, the option to deliver those pigs. The issue today when we have less supply because of one of the plants that got closed in Sioux City --

because we have less supply -- August of last year, I had producers that were selling on the open market that could not sell pigs for three weeks. And that was a problem.

So, you know, as a lender -- and I'll give you kind of how my job works. I'm not the person that makes the decision when we do the yay or the nay on the credit. I'm the relationship manager that goes to his farm, tries to understand his business the best -- the best he can. And then we kind of work together on trying to develop a business plan that works best for his business.

I have to go in front of a credit committee and kind of explain this to our credit committee. And part of the things they're going to ask is what type of alignment or what type of marketing agreements do they have in place to ensure -- that mitigate some of that risk. If you're a younger producer, which -- the only comment I make is in Minnesota, in the Midwest, we do have young producers that are very successful today, raising odds. We've been able to do that. I -- and we've worked together in the -- in developing marketing plans. We do extensive training on risk management using futures and options. We might do forward contracts with the packer. But it's using all the toolbox (sic) in the toolboxes to make sure that that producer has a chance of being profitable.

Now, part of that is -- the issue is if a producer -- a young producer that's 25 comes to me and says he's going to sell all the pigs on the open market, you know, I might have a high integrity (sic) that he has the management capabilities to be able to do that. But the question that I'm going to get asked is: What risk management is he going to use? Is he going to be able to use futures? Is he going to have a place to deliver his pigs? Those are the questions I get asked.

So, you know, I do think, when I look at 5 percent of the spot market today, it is a little bit thin. But again, where I'm at, I'd prefer not the government to decide what that is. I trust my producers in making those decisions for them.

MR. WEISER: I'm going to go to Jerry with -- the broader question is: Do the current institutions in the market provide sufficient price discovery opportunity and transparency? Is that something that you're comfortable with? Obviously, some people suggested that there may be a flaw in the current system. What's your view?

MR. BOHN: I can speak for our company. We have at least three buyers every week; sometimes four. We sell about 60 percent of our cattle. We market about 175,00 to 200,000 fed cattle a year. About 60 percent of our cattle are merchandised in the cash market, and about 40 percent are on grids or possibly forward contracts; those kinds of things. So we see -- and I think the Texas Panhandle, Kansas markets, Nebraska, Colorado are all fairly competitive in that regard.

And I want to speak -- I want to back up a little bit and speak about marketing opportunities. You know, one of the things we're talking here today are the fact that small producers don't have a chance to participate in these marketing systems that we have today. I want to share a little data with you from U.S. Premium Beef first, and then I want to share a personal one with you from our company.

U.S. Premium Beef has marketed about 8 million head -- had about 8 million head of cattle delivered through -- in its system since it started in 1996. The average premium per head for every one of those animals was $21.74 per head above the cash market. But we found that the smaller producer's got an even bigger price, bigger premium. 82 percent of our members deliver less than 500 cattle a year. I think they would be considered small producers. And our sort there, the top 25 percent premiums that were paid in -- with the company, the top premium went to the group made up of members that deliver less than 250 head a year. They got $63.48 a head premium.

If you look at the top 10 percent of the premiums, the members that delivered less than 250 head of cattle per year got $79.74 a head per year. The second-highest group were those that delivered under 100 head a year. I would consider them small producers also. They got $79.57 a head premium. So there are opportunities today -- in the market systems that are existing today for small producers to participate.

Let me share a personal one with you. I had a group -- a man in the spring, a customer from Kentucky. He had 18 head of cattle in a feedyard. He was part of a multiowner pen. He had grouped with some of his neighbors to send a pen of cattle to our feedyard. When we merchandised his cattle, he got $129 a head premium for those 18 steers. Now, if he would have took them to the auction market or if he would have sold them in the cash market where everybody gets the same price for same cattle, he wouldn't have gotten that premium.

So I'm telling you, there are opportunities for each one of you to participate in the market today and to get a higher price for your cattle.

MR. WEISER: I'm going to come back -- yeah. I'm going to come back to that in a minute. A little bit more discussion about sort of the price discovery and transparency. Mark, go ahead.

MR. GREENWOOD: Just 30 seconds. If I look at our portfolio over the last two years when we saw corn go from almost up to $8 to now sitting at about $4, the independent producer that raised most of his own corn compared to the larger producers that had to buy a lot of their own feed stuff had a much better -- fared financially -- and we look at the portfolio -- they have fared much better financially than that larger producers.

So it goes back to Jerry's point. An independent producer, if you have market opportunities, can compete with anybody. And actually, when I look at the Midwest, from a global perspective, U.S. pork production is the best in the world.

MR. WEISER: Let me go to -- we have two producers. I'd ask you, from your perspectives, have you been able to get enough insight into the price system so that you feel you're able to know where and how to sell, or do you feel like there are some sorts of structural limitations.

Armando?

MR. VALDEZ: From my perspective, I don't think the information sharing is there. I don't think the transparency is there. Because if all those premiums were available, I don't think this room would be full with all of these different individuals out here. I think there is preferential agreements. I think if you're -- fit within a certain characteristic or fit into a certain box or a certain area, I think there are those premiums available.

Being an individual, like I said, with distance as an obstacle, I know I'm getting discounted automatically. And that becomes a challenge. And I know there's other ranchers and producers out here who feel and share those same experiences, especially in my area.

MR. WEISER: Gilles, what's your experience been?

MR. STOCKTON: Well, you know, it's a little bit complicated because we've got two sides to the cattle industry. And I'm a cow-calf, and I'm not really dealing directly with any packers. And I never -- although I did last year. I got one bid; take it or leave it. And I took it. A week later, the market started going up. And for no reason -- for no reason whatsoever.

You know, and when you look at the market for cattle in the last three years, it's been going up, down, demand of constant, demand is pretty good even with the recession. Numbers are down. The market is going up. The market's going down. You know, you're USDA, GIPSA. You tell me why. Because it makes no sense to me.

There's something I wanted to kind of just finish from my previous talk there. In 1996, the Western Organization of Resource Council gave USDA a petition for rule making. And there were hearings held in Denver in 2000; very extensive hearings. And some of these same people were there, and I've see quite a few of the people here. Did I lose my page? Where did it go?

MR. WEISER: We can come back to --

MR. STOCKTON: No, no. I'll just finish.

So we had those hearings, and there was never a ruling from the USDA. And the subsequent secretary of agriculture had not ever made a ruling. I am submitting today, you know, a letter -- and if you can give this to Secretary Vilsack and Attorney General Holder -- asking to look at this rule, this competitive and transparent pricing rule. It's a very, very simple rule.

All it says is that beef packers should make their forward formula contracts in an open public-manner bid with a base price. And the second part of the rule says that if packers are feeding livestock, the livestock should be marketed in an open public manner. There should be a firewall between their packing subsidiaries and their feeding subsidiaries. I'm just saying, let's take what's being done under the table and in the dark and just bring it out in the sunshine.

MR. WEISER: Clem, how do you analyze the price discovery issue?

MR. WARD: When we talk about price discovery and when you talk about concentration both, there's an aspect here that, I think, has been alluded to but we've never really openly addressed it. And that's a fact that -- you know, if you're situated in the heart of hog-production country or you're situated in the heart of cattle feeding, you know, the concerns that you may have about price discovery and concentration are probably going to be less than if you're out in some of those other areas -- what I would call fringe production areas -- where you may be more adversely affected.

There are regional differences. The RTI study found regional differences in the amount of AMA used by packers by region, both in the hogs and in cattle. But we also know that as concentration increased and we began to close plants and so on, it was usually in those areas where there were not a lot of supplies nearby. So those are a lot of the areas where many of you are from and have major concerns about not having opportunities because those plants are no longer there.

I just thought it should be mentioned that, you know, there is some -- there are some regional concerns here associated with price discovery and concentration.

MR. WEISER: So the other question I want to put on the table is with respect to something which has been talked about but worth talking about expressly, that there's an opportunity for premium products for niche areas. People seem to have a difference of opinion on exactly how readily available that is.

Libby, why don't you start off. Where do you see those opportunities? How extensive are they?

MS. COOK: I mean, I see opportunities in more progressive practices, such as better animal husbandry and welfare practices. I mean, we see a lot of negative publicity in the beef industry just with movies like "Food, Inc." or "Omnivore's Dilemma." And I think that's caused problems for the beef industry from a consumer standpoint.

So in terms of educating the consumer and marketing possibilities, I think promoting better husbandry, animal welfare practices, using antibiotic-free vegetarian-fed or grass-fed beef, also raising different breeds, whether it's leaner or heartier brands, Angus or Hereford -- more quality brands -- or it's selling direct to consumers through farmers markets, selling directly to specialty restaurants or retailers, creating cooperatives to create a better base from which to have marketing power or creating value-added products in the organic and natural markets in particular. There's an explosion of consumer demand for value-added products.

I talked with Mark McKay, the CEO of Coleman Natural Products down in Colorado. And he had recently met with a group of ranchers in Iowa, and they were using a local small packer to sell products and create value-added products that he then distributed to the natural foods industry; everything from flavored sausages to meatballs to -- you know, I know I've seen organic jerky -- beef jerky products; that type of thing.

MR. WEISER: So, Bill, I want to go to you on this one. We heard someone this morning say that the problem is if you want to sell directly to consumer stores, restaurants, you've got to go through a USDA facility. And that may not be easily accessible. How do we bring the opportunities that Libby talked about and square that with that challenge that was talked about this morning?

MR HEFFERNAN: It's not easy. And that's one of the big issues. But before we get too optimistic about these alternatives, may I just remind you that Laura's Lean Beef sold out to Meyers (sic) all-natural angus down in Loveland here. And that was in '08, I believe. And then Coleman sold out to the same organization. So Coleman All Natural want to Meyers. And I think it's the beginning of this month, less than 30 days, that Meyers all-natural angus was basically. Let's say they call it a go-to market effort with Cargill. But, basically, all the processing and so on is going to be shifted over to Cargill.

The bottom line is once we do get these set up and if they're successful -- and I pick on these especially because these are such well-known brands. If there's any badder brands in the country, these are the three. And yet, basically, for all practical purposes, those producers who used to have a unique product -- it will stay that way for a while. But the whole identity -- the real benefits of some of these alternatives are being lost pretty rapidly when it gets put into the system like that.

And as I said earlier, I was on the board of Ozark Mountain Pork. That's sort of an interesting one because after the price of hogs dropped at the end of the '90s, the USDA, the Rural Development Division, gave out a lot of grants to farm -- farmers who had hogs who were trying to put together an alternative market. And that -- including, perhaps, putting together a processing plant, to get back to the real question here. And, interestingly, we got started. We had our problems along the line. But eventually, we got things sort of going.

Now, we have a pretty big debt in the meantime and we were sealing -- we were selling meat on the West Coast. We were out on the East Coast. We were in the -- to a distributor with the high-end restaurants on the east coast. We were into Whole Foods.

And then at Meadowbrook, we were -- there ended up being three -- sort of three cooperatives, three organizations working together on this. Because we had the -- we had the farmers with us to raise the product to begin with. But it took so long to get the market, we didn't have a market. By the time we got the market, we no longer had many producers left in our organization. And Meadowbrook had this nice facility, but they couldn't keep it busy. So we teamed up with Meadowbrook and another organization that had producers that needed a place to go. So we sort of had three cooperatives working together cooperatively. That was a nice way to do it.

Then Meadowbrook finally got in trouble and they went under. Those of you who followed the news in the last week, that facility just finally -- it's been sitting empty since then. It got picked up by another one that's going to try it. We have a common saying in our group. We bought our processing plant after someone went broke. And the saying on our board was, While the first mouse doesn't get the cheese, the question is, will the second get the cheese? So maybe now the second one in will get it.

But the bottom line -- there was a processing plant, got it set up, got going, couldn't make it. Before long, our other partner had some real financial issues given just the whole commodity issues and so on. They pulled out. We were going on our own. And one day, we got a call from journalists -- there were three journalists that called. One from USDA, one from a farm magazine, and one from a trade journal. And they wanted to suddenly know more about our organization. We had the sense maybe that we were the only ones -- we know there weren't many. We have been the last one standing of those people who got those USDA grants.

MR. WEISER: Well, I --

MR. HEFFERNAN: And let me just add that. And before that, David Zoller (phonetic) got a call from the president of the board of directors saying we were done. We were sold out. We're done.

MR. WEISER: So to -- another farm metaphor there. It could be said to be a chicken-and-egg problem here. If you don't have the processing facility, it's hard to have --

MR. HEFFERNAN: There you go.

MR. WEISER: -- the opportunities --

MR. HEFFERNAN: There you go.

MR. WEISER: -- to get it developed. If you don't have the people selling, it's hard to make it work.

Mark, you have a unique perspective on what it takes to make these facilities viable. What are your thoughts?

MR. LAURITSEN: Just -- Bill brings up an excellent point about, you know, Laura's Lean and Myer and the transition that's going there. The question to be asked is: Why did they end up consolidating at the beginning levels and at the end? And here's the thing. So if we all close our eyes, wave the magic wand, if we woke up tomorrow and the dream came true and under the current U.S. law we busted up the big packers, so what would it look like?

Well, the law says you have to divest. So somebody has to operate that facility. How long could an independent plant out there by itself in Marshalltown, Iowa, withstand the price pressures that are put on them by the large retailers like Wal-Mart squeezing every ounce of profit out of them. We end up, I think, with less. And plants that sit empty -- because then they're no longer, you know, being divested. They just couldn't make it as a company, so they go out of business.

Well, who gets hurt there? The producer has nobody to sell their stock to and the worker has no place to work. The consumer gets less choice. Those communities are devastated by the loss of good jobs in the community. So as we look at this, I don't want to sound like I'm beating this drum to death. But there is a large component that really needs to be addressed. Hopefully it gets addressed in Washington. These retailers are exercising way too much power in this industry, and somebody's got to call them on it, and they have to do it soon.

MR. WEISER: I want to ask to go to -- go to our panel and ask each one -- each member of the panel, in a minute or so, to give their advice to a start-up rancher who is getting into the business to understand, obviously, the challenges that we talked about, what kinds of counsel would you give them?

Clem, why don't you start us off.

MR. WARD: Well, I think someone said earlier you need to use all the tools available. But capital is a huge issue for young farmers, I think. Some of us who have some land know how much land has appreciated. For some of us, that's a wealth effect and that's nice. But for a young farmer, that just is a tremendous obstacle to getting in the business. And so, you know, you're going to have to use Enterprise Budgets. You're going to have to use cash-flow planning and every tool that's available to make sure you don't overinvest.

The standardized production analysis data shows pretty clearly that the top quartile in profitability are those operations that have below-average investments in land, equipment, and cattle above average production. So you have to take care of the production end of the business and you have to concentrate on marketing. And that means doing the things that the market suggests. And, for example, we've been trying to push preconditioning programs in Oklahoma and many other parts of the Midwest because we think there's some premiums there that cow-calf producers can benefit from.

MR. WEISER: Gilles?

MR. STOCKTON: The question is: Advice to a young start, what can they do? What's that old saying? If you're going to get married, she might as well be rich.

I don't think someone could get started the way I got started and make a go of it. And part of it that help me a lot -- besides my parents, of course -- was USDA and the Farmers Home Administration; probably the best program USDA ever had. And after helping me with low loans and helping me on planning and business and advice and stuff, after about 12, 13 years, they told me it was time to graduate. And I did and I'm still here. But I can help my son quite a bit, but I don't think he'd be able to make a go of it unless he finds that rich girl.

MR. WEISER: Jerry?

MR. BOHN: I'd say get a good education, get some business experience, maybe even go away and work away from home for a year or two with somebody else, work with your banker to establish that relationship, learn about risk management. We're in a risky business. Not enough of us know how to manage risk. And I think they need to as they come into the industry, they need to understand how to manage risk.

Let's get rid of the state tax, make it easier for these people to come back to the farm and ranch. Let's lower the cost of regulation. Air reg, water regs, it's unbelievable what the cost of that is right now, and the negative impact it has on agriculture. How are we going to repopulate rural America if we regulate them out of business?

And finally, we've got to figure out how to make land cheaper. You know, we've got to quit letting land be developed for cities. Urban sprawl and recreation is ruining our -- the opportunity for young people to buy land in all parts of the country.

MR. WEISER: Libby?

MS. COOK: Coming from the small-business perspective, I'm the consummate entrepreneur and always optimistic and always think that there's a way for business to compete. Small-business owners need to be creative, need to have aggressive marketing strategies. And I do a lot of small-business consulting. And I feel like, you know, just like any other small business, creating a niche and being creative, looking for opportunities where you might not think there are opportunities, is the best way to succeed.

MR. WEISER: Mark?

MR. LAURITSEN: Well, where I grew up, you either raised it or killed it. My family killed it. So my advice to anybody starting up in anything, I guess, would be: join a union.

MR. GREENWOOD: Actually, you know, from the swine sector, we have had some success with young beginning farmers getting in. I can give you countless stories of -- we did loans -- young beginning farmer loans. And we have young beginning farmer programs where we were leveraged at -- they didn't hardly have a -- what's the term -- a pot to piss in.

But, you know, we developed young beginning farmer programs that had contract arrangements for contract -- with a contract pig owner. It's been paid off over a ten-year period. Now they've had the choice -- and they have the choice, however -- if they want to own pigs. Some of them are and some of them have chosen to be contract still -- vendor contract production. That program has been one of the best young beginning farmer programs that we have had in our association bar none. And it has allowed -- I can give you countless stories of farmers -- these young guys in their mid-20s, now they're actually owning some pigs, also owning some land, that have done pretty well.

I'll give you one quick story. We had a college intern last year. He did a lot -- he's a lot smarter than me, by the way. Family farm, 500 sows for finish. He came in and he was helping us kind of analyze our portfolio. But he -- I said, If you had a wish, what would you do? What did they want him to do? He put together a live break-even using the Chicago Board of Trade with futures, live with corn meal and hogs, and that kind of helped kind of do average costs. Well, he built it in about two days and it's live. There are a ton of bright young people that have -- and he went back home farming, by the way. But he's using that tool to manage his risk. So there is opportunity, by the way.

MR. VALDEZ: Agreed, there are plenty of opportunities. I think it's a great question. Because young farmers, we're all vested in them. We need food.

We need food production. So in starting to think about this question, it was what would I like to tell them or what do I need to tell them?

I'd like to tell them, you know, it's a very profitable industry. They have to get in it. There's nothing else better. Great lifestyle, great communities, great and plentiful market options where they can make lots and lots of money. What I need to tell them is that they need to be efficient because there's slim margins. And any errors out there are going to quickly wipe those away. So a good education and understanding risk management, I think, is very, very important. Also, you need to watch your cash flows. You need to see where that money is coming in and where that money is going out. Don't depend on a banker.

I like the gentleman's idea about finding a rich spouse. You know, unlike the husbands down there, I put down, you know, find a rich aunt or uncle and get the money; get the animals from Mom and Dad. The state taxes are an issue, especially in rural America. But if you're going to pass an estate and you're going to die, 2010 is the year. Just ask George Steinbrenner. And there's an ad that goes, If you want to make a little money farming, start off with a lot of money.

It's very honorable, very honorable to raise food for the American people and the world. I take a lot of pride in that and I consider it a strong privilege to live in the lifestyle and the community that I do live in. There should not be a trade-off, though, to have that wonderful lifestyle and honorable profession and trade off for economic opportunity. We shouldn't have that trade-off.

One final comment, I think we don't need to look just to our rural communities to develop young farmers. We need to look for flight from our urban and suburban neighbors. We're so much looking at how do we keep them on the farm. We need to keep them on the farm, but we also need to find how people are going to get into farming industries as well. So there's a lot of options, a lot of opportunity. We just need to develop the mechanism and the infrastructure to do so for those young people.

MR. WEISER: And, by the way, later today, Armando is going to be doing a standing-up comedy routine at Congressman Markey's ice cream shop for those who want to stop by.

MR. VALDEZ: How do you think I went through Colorado State University?

MR. HEFFERNAN: Well, the question isn't exactly just hypothetical for me. About a year ago, I learned about a young fellow, a senior at the College of Ag, finishing up. He lived about six, eight miles from me and he wanted to farm. He's gotten an FSA loan and bought some cattle. There were a couple of landlords who rented him land at below what I would call a market price that they could have rented it for; giving him a break.

I'm trying to downsize, so I've got a little more time to do things. I need somebody to help me in the wintertime, and other times to look out for my animals when I'm traveling. And so I've got machinery capacity for hay making and so on that I don't use much anymore. And so I could help him out on that. So some of us sort of got together talking about this.

But when you really get right down to it, he's either got to -- someone said earlier -- market, really spend some time marketing. And people who do this tell me when they're producing -- Armando, you brought that up -- you've got to spend about half your time producing and half your time marketing when you do that.

MR. VALDEZ: Another half taking care of everything else.

MR. HEFFERNAN: Yeah. You do that after dark.

MR. GREENWOOD: You need a good banker, though.

MR. HEFFERNAN: Well -- and that's really the point. With all that going for him, are we really going to do him a service by putting this piece together? It's still a question.

MR. WEISER: So, Bill, you made a reference -- I want to say, unfortunately, there's no time to get to the comments. But this one, we have to say, which is: Thank you to all the people who stayed home, so we could be here today, taking care of our cattle, livestock, and farms.

We're aware a lot of people couldn't make it because they were helping those who came. This has been a great panel discussion. It's very helpful. I want to thank you all. And then we'll segue onto our next panel.

(A recess was taken from 2:49 p.m. until 2:56 p.m.)

MR. MACDONALD: My name is Jim MacDonald. I'm with the Economic Research Service of USDA. And we have a group of participants on this panel with, I would say, both deep and brutal experience in the business. I'll introduce them to begin with. Starting to my right at the end of the panel, we have Bruce Cobb, who is general manager for Consolidated Beef Producers, a feeder-owned cooperative that markets cattle, two packers, on behalf of their feeder members.

Next to Bruce we have Dave Domina. He's an attorney with Domina Legal Group, who is also the lead attorney in the Picket IVB (phonetic) case. Next to Dave we have Mark Dopp, senior vice president of the American Meat Institute. Next to Mark is James Herring, immediately to my right, president of Friona Industries, a feedlot company with four lots in North Texas.

To my immediate left is Bob Mack, cow-calf producer and feeder in South Dakota. Next to Bob is Bob Miller, rancher and deputy director for the Division of Tribal Affairs for Muscogee Nation. To Bob's left is Bill Rishel, cow-calf producer in Nebraska and president of the Nebraska Cattlemen's Association. And finally all the way to the left end of the table is Charlie Rogers, who is owner-operator of Clovis Livestock Auction in New Mexico.

We're going to cover two broad topics. And as you might guess, we're going to be integrating cross panels. We're going to be talking about some topics that you've heard a little bit about already. I want to start the panel off talking about some issues related to concentration and competition in the fed cattle business, and then I want to shift over to a discussion about marketing practices.

Let me start with concentration questions. We've heard the broad numbers in several different panels; that it's about 80 percent of the fat cattle in the country are purchased by the four largest packers in the country. We found in the investigation of the proposed JBS National merger last year that through most of the High Plains, most sellers faced three to four bidders, a number that we heard in a few earlier discussions.

So I want to start off and talk about the nature co concentration in different elements of the business. So let me start with James Herring and ask him, in your experience, do you typically face three to four potential buyers for your cattle, and do you think that's an accurate representation of the situation in the High Plains?

MR. HERRING: Well, first of all, Jim, thank you for allowing me to begin this panel and for being here in the first place. Looks like we've got a lot of interested participants out there. And I guess it -- I need to introduce at least at the beginning that we are a relatively large cattle feeder in the Texas Panhandle. We have worked for the last 13 years to create a vertically aligned production system into a series of brands that we put into Safeway and Harris T and some other retailers.

All of our cattle are merchandised in a formula based off the cash market. So we have our antenna up on the cash market at all times. And I might add that I have -- as the president of the Texas Cattle Feeders, in

1996, I was instrumental in getting the ball rolling on a cooperative call of consolidated beef producers who are also represented on this panel.

We have three to four packers out in the Texas Panhandle that participate on a very aggressive basis. We are lucky as a region because our packing community has excess capacity. We have kill capacity that's above our supply by about 15 percent. So if you own 100 head, you own 100,000 head, you market 100 head a week, if you're feeding in the right spot and you have the right kind of cattle, desirable cattle. Keep in mind that regardless of what anybody tells you, there are differences in value in livestock.

Regardless of that, we have an active participating marketplace out there with four interested parties that are trying desperately to fill up their capacity every single day and every single week. And that creates a pretty stimulative marketplace.

MR. MACDONALD: Let me just follow up a little. I've had several other people involved in the feeding business on the panel. Is that your experience, for example -- Bob Mack -- do you seek three to four buyers?

MR. MACK: No. In most cases three would be the max. Normally we've got one or two that have smaller feeders. And the feeders that I work with are smaller feeders, I think. There would only be a few of them that would market 10,000 plus head a year. If you're in the cash market, you're a residual market. And basically once the packers that are in the market have their captive cattle killed, they'll -- then they come into the cash market. And quite often I think buyers are even just a little bit lazy about it. They go -- they start off with the biggest lots that might sell some cash cattle and work their way down.

MR. MACDONALD: So is it generally true that we would expect people with greater volumes to have more bidders for their cattle? Is there a relationship between bidders and the number of cattle?

MR. HERRING: Well, I think the example was 100 head a week or 100,000 head a year or 100 head a year. And our market is a weekly market, so 100,000 head a year is about 1,800, 2,000 head. And we're lucky we have an active participating marketplace out there as I mentioned. Kill capacity is pretty vigorous. In my mind, again, pick the right feeder, pick the right cattle, you have aggressive participation for the purchase.

MR. COBB: Jim, if I could comment on that as well. At CDP we've been in business for 10 years and market a lot of cattle. And we're the largest marketer of cattle in the negotiated market in the country as a co-op, organizing the Cattle Alstead (phonetic) Act. And we see the market function every week not just with any other region, but cross regions. So we have a pretty good feel of what's going on in the marketplace as it relates to bidding. And while potentially there are four market participants, what we see typically region by region is there are really one to two, meaning full participants, rarely three and four, meaning four participants is very much of an oddity.

And one of the things that we value very greatly at CDP is that we're very data driven, number one. We work week in and week out to understand the markets. Each market is different. A lot of dynamics going on. Conditions change, so we study them in great detail. So we tend not to lend ourselves to what we subjectively believe, okay, but what is objectively true, greatly data driven, as I said. So let's just look at the data, what does the data say about bidding in the marketplace. And we did our own assessment and challenged ourselves very deeply on this. And we looked at the last 52 weeks in Texas, Oklahoma, and New Mexico.

In the last 52 weeks, there were three meaningful market participants five times, five weeks. Only two weeks were there four meaningful market participants, so a total of seven over a 52-week period could be defined as perfect competition. Additionally, there are 18 weeks in which there was only one market participant, four weeks in which there were none. So a total of 22 weeks we had a market that was defined as in perfect competition. So we consistently can see region by region where we had a presence where the region is dominated by one buyer, clear and simple.

And the fundamental reason we see this kind of behavior going on is because of the large volumes of the non-negotiated supplies that are already committed. And I'll tell you this: Guys, as an industry, we have to recognize the problem because it's not just a problem to the negotiating market; it's a problem to the entire health of the U.S. cattle industry.

MR. MACDONALD: Let me keep just a brief follow-up now on the concentration side. In particular, the areas that Clem Ward in the previous town described as fringe areas perhaps outside the High Plains. Then if you have experience or want to comment on the number of buyers we tend to see in areas outside the High Plains.

MR. MACK: The numbers will generally be less, and a lot of times you're dealing with regional factors. But it's not uncommon. We're -- when we deliver cattle, we're hauling the cattle up to 800 miles, quite often. So there's other factors involved there, too, but I agree with what he says, it's not only the cash cattle that are being affected, it's also that's establishing the price for many of the captive capital. And so when that market is pressed, it's actually driving the capital market down also.

MR. MACDONALD: Let me give you one more quick one since you brought up distance. Are those distances for fat cattle?

MR. MACK: Yeah, one way.

MR. MACDONALD: Now, I've talked a little bit about numbers, and Bruce touched briefly on volumes and bidder numbers. Let me follow up a little bit with Bruce and see if -- we also want to have other people jumping in on this.

Bruce, do you also see that volume matters in the types of prices that you're able to get? In other words, do you get price premiums related to volumes of cattle that you're selling particular transactions?

MR. COBB: I think in any industry, yes, volume does matter. It does speak, whether you're talking agriculture, airline industry. It really doesn't matter.

What does matter is taking time to understand the marketplace and study. We at CBP strongly believe that you have to get in and study the business week in and week out to understand the dynamics and the conditions of each marketplace. Markets change not because of some whim. Markets change because of fundamental supply and demand, and you have to understand that. And there also has to be a balance in terms of buying and selling power. That is a business strategy in any industry.

MR. MACDONALD: I wasn't sure I got the answer out of you. Do you get higher prices when you sell the market --

Mr. COBB: Yes, absolutely. At times there are -- in the last eight weeks, there have been numerous two-tiered markets. So, yes.

MR. MACDONALD: Two tiered meaning a premium for volume in a transaction.

MR. COBB: Meaning that the market begins at one level and then goes to another level during the week.

MR. MACDONALD: You mentioned that -- let me see if we can get others following up as well though because we did have discussion on earlier panels on the volumes and prices. And I'd like to see if other panel members have a view on this.

You need a particular threshold or significant volume of cattle to be sold in order to get a price premium -- one of the going premiums in the market.

MR. DOMINA: Well, it might be worthwhile to look at the data that the packers report to you. The mandatory price reporting data doesn't indicate that there's any difference per volume, but it indicates a very large packer reported difference from packer-reported data between cash prices paid and non-cash prices paid. From 1994 through August 10th of this month, that difference was a little over $21 a head. That's one of the problems.

The other problem is, if the question and the answer don't necessarily match up, the data isn't very good. The first question you asked today was, what is the market level activity that's seen at Friona Industries. And the answer included the word "vertical" and then described the market. I think I'm right that Friona Industries sells 100 percent of its cattle under a contract arrangement to Cargill.

And if that's so, there's no bidding for those cattle by those other three packers. So the data has to match the question in order to be meaningful.

MR. MACDONALD: I'll give you a chance to respond on that.

MR. HERRING: Well, the answer to that, as I mentioned earlier in the comments, it was yes. We do trade our cattle in the formula because we spend a lot of time and effort downstream to acquire the cattle that can perform against today's pricing parameters in the marketplace. So even though the choice select spread is relatively tight now, and there are other little nuances in the marketplace for premiums and discounts. Obviously, we design the cattle to fit the formula and the pricing mechanism that exists in the marketplace at the time.

So, yes, we do use the cash market to represent a base price for what comes to us, because we spend a lot of time and effort based on tenderness in our 27 critical control points to create a differentiated product for the retailer and consumer. So, yeah, I'm not embarrassed to say I'm chasing a premium every single day. I want the premium. I want my cattle producers that deliver to us -- there's 82 of them across about 28 states. I want those people to be well rewarded as well.

So, you know, I've heard a lot of commotion here today about vertically aligned production systems, but you're going to hear this afternoon in some comments from producers that are in a vertically aligned production system that it's not that bad. We pay them, and we're in the marketplace 24/7 with premium prices for the cattle that we know will perform.

Don't ever let anyone tell you that livestock are the same, because they're not. In our 13-year progress of this branded product scheme that we have now, there's $400 difference in the cattle from pen to pen any time in the Texas Panhandle. You walk into any pen of cattle in the Texas Panhandle that's traded on a commodity basis, a commodity price cash price, and there's $400 difference.

So all we're trying to do is mind those differences. And we have a way to do that and we're proud of that, and people down below us, you guys sitting out here in this room, 650,000 times a year, somebody has a grin, smile on their face, from something that we've done.

MR. DOMINA: That's called premium selling. And the reason it's called premium selling is because if a packing plant kills 5,000 head of cattle a day and operates for eight hours a day and operates for 28,800 seconds, divide that by 5,000, it takes 5.8 seconds to kill and harvest an animal. And that doesn't allow differentiation in the packing plant. That is premium selling.

MR. HERRING: Can I respond to that, too? Here's the real discussion. The USDA spent a lifetime creating a grading system that says to the rest of the world, retail and the consumer, hey, we want you to know the differences in livestock. That's not a bad thing. That's a good thing, because there are differences in livestock. And the GIPSA regulation, as it's written today, would take that methodology, that attempt to differentiate the meat within an animal, and to the producer not allow that. Does that make any sense to any of you sitting out in the room?

MR. MACDONALD: Absolutely not. Let me try to hold us off. I still want to stay with the concentration a little bit before we get into arguing over marketing practices. Let me just take a little more time on some of this. As Dave pointed out, a large kill plant today will slaughter about 5,000 cattle a day. I think it's two shifts that will make 5,000.

MR. DOMINA: It takes 10 seconds.

MR. HERRING: If I go back a little bit -- yeah. Two kills.

If I go back a little bit further, back when concentration was low, 1980, the top four packers owned about 26 plants. Today the top four packers with a concentration of 80, about the same number of plants. Those plants are a lot larger. We all know that. We didn't have plants killing 5,000 a day in the early '80s. What I want to do is take a little bit of time to talk about something Clem Ward mentioned in the past panel, which is whether there are scale economies and to what extent they are in packing plants.

In short, I want to get around to the several drivers that are driving us towards higher concentrations.

So I'd like to ask Mark Dopp, Do packers realize any cost or efficiency advantage from these large annual transaction products?

MR. DOPP: Thank you, Jim, for allowing me to be here today. The short answer is yes. The data is indisputable, in fact, I heard somebody discuss this issue very recently. And last night, I think it was described as a fairly boring topic to analyze because it's so well founded, so well discussed, and so well proven, that the economies of scale matter very, very much in this business.

The data I was given recently and provided recently shows, for example, a plant kills 1.7 million head on an annual basis is 5 percent more efficient than a plant that kills 1.3 million head and 12 percent more efficient than a plant that kills 950,000 head. Now, 950,000 head is still a lot. But when you're talking about efficiency on a scale of 12 percent, that's a big number. So the short answer is yes. And it's not surprising, therefore, that companies started looking at ways to become more efficient getting larger to achieve those efficiencies, those economies of scale.

Now there is something I would like to talk about for a minute, and I'm not taking issue with your data, Jim, but something that nobody's mentioned all day.

Something I hear about a lot is this quote, unquote, increasing concentration. All right. Well, the facts are -- if anybody wants to go to GIPSA Web site and look at the 2009 report, which was published in March of 2010, you will see that for fed cattle, the concentration, the CR4 number, the concentration ratio is at about 80 percent. And it's been there since 1995.

It hasn't changed more than about a percent. Go to page 45. It's in the report. So this idea that there's increasing concentration in the cattle industry or the fed cattle industry is a bit of a red herring. Now admittedly, it grew from 80 to 95, that's when you move from 30 to 80 percent.

But since 1995, that number hasn't moved much at all. In fact, you can talk to some economists who will tell you it's about 70 percent. So, in fact, I looked at the report this morning. For steer and heifer it's 81 percent in 1995. In 2008, the most recent data that the agency publishes, it's 79 percent. For fed beef production, 85 percent in 1995. 2008, again, the most recent data they put out, 76 percent. So there is a bit of -- there's some disingenuousness, if that's a word, out there about this increasing concentration. It just hasn't happened, not recently.

Now, there are some very good reasons why the concentration is not there. And some people talked about OSHA issues and EPA issues. Let me mention one other because I'm intimately familiar with it. Some of the government regulatory policies that USDA has put out have contributed or fostered that concentration level. And I'm thinking about the food safety policies. I'm the first to tell you that we are all in favor of the most stringent food safety policies out there. But I can tell you as a fact, because I represented them. I represented a company that some of you know in Nebraska that went out of business in 1997 because of an E.coli recall.

That recall, that policy, led to at least two other companies leaving the business. I represented those companies. They sold out. They were family-owned operations, and the folks that ran those companies said, I'm not taking the chance of being the next Tyson Foods, so they got out. Those types of things contribute to what everybody calls critical, the concentration issue.

MR. MACDONALD: So if I could just jump in briefly and put it in a past tense then. When it became concentrated, do we have a sense of why that happened besides from a scaled economy? Are there other issues involved in the increase of concentration that occurred during the '80s and '90s? And I agree with you, the major structural change in the industry occurred during the '80s and the '90s. Anyone want to take a shot at that?

MR. DOPP: I think what was discussed a little bit about the retail sector has contributed somewhat to that. I think the issues there, however, are far more related to the cattle marketing issues which you want to get into. I think the evolution of the retail sector contributed perhaps a little bit.

MR. DOMINA: I'll take a shot. First of all, I think the only place you could be employed in the livestock industry and have a sense that the market is unchanged for the last 20 years would be as a lobbyist for the packers.

I'll tell you, the second thing I would say is that surely one of the reasons that concentration came to be, continues to be, continues to grow and gets worse is because packers with large plants are able to cut up more pieces of meat by the pound by the hour for the same weightage as if it was a little bit smaller, which creates the marriage between the workers who are here and the producers who are here. We have the same problem.

The third thing about concentration is answered with a simple rhetorical question. 64 percent of the deposit assets of the United States of America including its federal treasury are in four banks. If you feel safer about your country because of that, raise your hand. And if you don't, then why would you think your food supply is safer at a higher level of concentration than your money?

MR. MACDONALD: What would the concentration level be if the justice department had blocked the most recent GPS merger?

MR. DOPP: I think they would be at 80 percent. You would have three firms at 80 percent, not four. It's still 80. You're marrying three out of four. If I might make an observation about the food safety comment that was made, you know, I think there's been a lot of meat about that, and I think it's frankly some people need to learn the facts. For example, when E.157H7 was written in about 1994, 1993, the incidence rate on products coming out of US federal inspected packing plants was about 1 percent, maybe a little higher. It's now at .1 percent. So to suggest that the packers aren't doing a good job at dealing with E.coli issue, I think it's just not true.

MR. COBB: Jim, could I comment one time on concentration?

MR. MACDONALD: Sure. I need to get somebody from that side.

MR. COBB: The numbers on concentration, they are what they are. But the reality is that on a regional basis, because of the concentration, it allows for market power. And then because of procurement practices, that creates lack of competition.

MR. MACDONALD: Get us to the last question on the last section of concentration. I'll just put it straight. Since Bob brought it up, suppose a merger had gone through and an we had one less buyer, let me throw it out and ask prices have gone up, what would the effect of fewer bidders, one fewer bidder, no matter what we're starting from, bid on prices? I'll let Dave start with that one.

MR. DOMINA: Well, if you're only getting one bidder, the price goes down, the price goes down because you get none. I think that Bruce is right that there are huge sectors of their industry. You know them, you've lived them, you've experienced them, where feedyards are getting one bid, one bidder. They only get one person who calls on them from one company. They sell their cattle to one place, whether they're in the cash market or not, and that's because they have one opportunity. It's not just four-firm concentration in the industry nationwide. It's sort of like politics. All cattle selling is local. And if you don't have somebody calling on your yard, you're not selling your cattle.

I hear twos and threes, but when you hear it from people using formula sales, you wonder why, if there's such a vibrant market. I think Bruce has got it exactly right. Concentration cannot get worse than one except to go to zero.

MR. MACDONALD: Let me put it then to the two of you. Had that merger gone through, would there have been no effect on price since everybody already faced just one?

MR. COBB: I think it would have been a dramatic price had the merger gone through, because rather than the few weeks that we have right now with product competition, we would have even fewer weeks of product competition.

MR. MACDONALD: Okay. So your issue is you would have had more weeks in which you would have single buyer?

MR. COBB: Yes.

MR. MACDONALD: Anybody else want to take a shot at that?

MR. MACK: I agree with everything he said. But at the same token, I think part of the problem with concentration is that historically cattle have been fed where they can be fed the most efficiently and for the least money. And right now you've got the packing influences in the South where you've got some huge feedlots. The unfortunate thing is things in -- or have changed with feed prices and things like this, ethanol production and other things.

And cattle can be produced cheaper once again in the Corn Belt, especially the western corn belt than they can on the High Plains. Shipping costs, irrigation costs, a lot of these things are factored in. But the influence of the packers over these large lots, they've been kind of joined at the hip and actually magnified the effect of that concentration.

MR. MACDONALD: You brought that up to me in earlier conversation, and I want to see if we've got other people saying the same thing. I understand you believe there is a fundamental change in the economics of feeding that starts to favor more corn belt and Northern Plains operations; is that right?

MR. MACK: Initially cattle feeding was done in the Corn Belt; when irrigation opened up in High Plains and you had a huge supply of feeder cattle and you could raise lots of corn very inexpensively. Cattle feeding naturally followed. Packers don't -- packing plants, their big feedlots went in there.

Historically, now if you go and take USDA numbers and track the corn prices in eastern Dakotas, North Dakota, Minnesota, Iowa, Nebraska, compare them to the Texas Panhandle, then add in ethanol byproducts, soy bean byproducts, storage costs, the availability to high quality, northern plains feeder cattle and everything else, historically cattle feeding should be moving back to the north. The packers should be moving back to the north, and things like this, but you're not going to see it because you've got huge feedlots down there joined at the hips with the packers. They could care less about how inexpensively beef can be raised, so the consumer can go and get a better buy so the feeder cattle producer can go and get more for his calf. All they're concerned about is to get more control of that market.

MR. MACDONALD: Any other reactions on that? Does anybody else see that economics are changing? Bill, yeah. Bob Miller, I'm sorry.

MR. MILLER: I'm probably one of the older ones in here and I've seen an awful lot of changes from the time we loaded cattle on the road; 15, 20 miles to the railroad to load them and take them to Kansas City. And they would be steers three or four years old that weighed from 12 to 1,500 pounds off grass. And then the people that raise corn in Iowa and Illinois and Kansas and Missouri all bought those cattle and fed them a little bit and killed them.

And so we've seen the markets, as Bob said, change from Chicago, Kansas City, where we even had two packing companies in Oklahoma City. And so the fat cattle there, we've seen all that change to the Panhandle of Texas and Oklahoma.

And it has caused concentration, and it has put a lot of people in a bind in different places. And it's kind of where you're looking from. And it's kind of like the two old maids that live together and they called the police and said there's a man next door that's indecently exposed. Would you hurry up here. Come up here and arrest him. So the police got up there and looked across the alley and said, Well, he's just -- I can see him but just from the waist up. She said, Well, get up here on this table.

So it's kind of where you are in this program. And you have to be in somebody else's shoes to really see what their situation is. I can't see that concentration is a good thing. But we have to agree that the packers and the feeders, for that matter, are much more efficient. When one company owns the cattle, the feed, the feedyard and packing house, to the ordinary cowboy, it looks bad.

MR. MACDONALD: With that, let's -- that gives us a nice introduction to talk about cattle marketing issues, something we've been coming back to all through the day. Before I get there, though, let me remind you of something I should have said right at the beginning, which is we have these volunteers in green shirts, Colorado State students, going up and down the aisles. They've got some pencils and notepads. They're using those notepads, I see, to fan themselves, which is probably a good idea.

If you have questions you would like to have the panel address, give a nod to one of our volunteers. They'll give you a piece of paper. You pass it back to them, and they'll -- I've got a couple coming right now I can take a look at. And we can look and see if we can work them in.

While they're there, though, while you're doing that, let me shift on to talking a little bit about alternative market arrangements and cash market volumes. And I'd like to ask Bill Rishel -- I know you've been involved in Angus programs for many years. I'd like to get your sense of why we're seeing shifts to alternative marketing arrangements and declines in cash market sales.

MR. RISHEL: Jim, I hope you'll bear with me here if I could make one statement before I get to that. There's been a lot of different opinions offered in this room today about a lot of different issues. And I'd like to offer one that's been touched on by several people earlier in the day and some folks who spoke at the microphone.

My biggest disappointment of this event was the fact that the first panel of the day up here, which included the secretary of ag and the attorney general, state's attorney general, assistant attorney generals, and commissioner of agriculture, and talking about sustainability of this industry and bringing young people back.

And the bottom line is that the death tax which will revert back to 2001 on midnight of December 31st this year, if something isn't done about it, will be the most devastating thing to this industry and the advancement of operations in bringing young people back. And I would implore everybody -- I would implore everyone in this room to contact your congressman, your congresswoman, the folks that were at this table earlier today, they have power in this administration and that is how we start the process of maintaining the farms and ranches in this country and bring them back. Thanks, Jim, for letting me do that.

My family and I are just a simple family operation. My wife and I, we raised three kids. They're all grown and have moved on. Our daughters married guys that were extremely good athletes, didn't have necessarily an ag background. And I jokingly say -- I love them all, but I jokingly say, There's not a damn good cowman in the whole bunch of them.

And I seriously -- they're great folks and I'm tickled to death. But what we did was primarily when they were young and my wife and I was struggling to make this thing happen, we did not inherit a place. We developed this on our own. My love has always been in the registered Angus business, the seed stock business. It's always been about developing genetics.

And I can tell you that only about one other time today did I hear anybody talk about beef demand. And for some reason, a lot of people in our industry do not believe that beef demand has anything to do with this process. And I think it has everything to do with the pricing and value of our cattle.

That beef demand, if some of you really looked at this, from 1980 to 1998, was cut absolutely in half. Had that kept going in the direction it was going, we could have been addressing an industry at some point here that would have been similar to the young fellow that was on the end of the earlier panel in the sheep business, an industry that has almost disappeared off the face of the earth in this country.

There's still in areas some of them being very successful with it. But the bottom line was, there was not a great promotional program in that or an added value kind of a program, and they just -- they just dwindled in numbers dramatically over time.

I see similarities in the beef industry. And what we did was from a genetic standpoint in developing the kind of genetics that we thought our customers could use to improve the genetic value and therefore the economic merit of their cattle was structured on evaluation work. Because those traits were so highly inheritable that we knew that our customers could certainly make these cattle better than the average.

I don't -- whether the cash market was 80 percent or whether it's 50 percent, and I don't know anybody smart enough to say what is an ideal cash market or an ideal balance. But I will say this: The cash market is an average of the cattle, and they're going to buy those cattle to arrange where they're pretty sure that the upper end of that lot of cattle or group of cattle will be good enough to be able to be pieced out into the industry to cover the cattle that aren't as good.

A lot of what I have to say about this has been repeated here earlier today because there's been so many folks to talk about it. But I do want to talk about -- we heard about certified Angus beef. It started out in 1978, struggled like all get-out. For about a six-month period, the USDA actually shut the program down.

They finally got it back on track. And then early 1980s, they sold their first million pounds of beef. It's projected on September 30th of 2010 that the certified Angus beef program will sell 785 million pounds of product. And I do believe that nearly everyone in this room that's a cow-calf person, and I am one, has at some point experienced some value from that program.

It has increased the price of cattle. The facts and the data pretty well substantiate that. And any of these economists, I can certainly provide that information. So that's one example. And that 785 million pounds is 18 percent above 2009. And I don't know about you, but S&P doesn't do 18 percent. And the DOW didn't do it, and I don't know anything else that did, but that did because there's consumer demand that pulled that product through that system because of the palatability and the value of the taste and consistency. It met the target. It hits the target for what is very, very salable.

We know, and it was said earlier, that there are these huge differences, easily $100 between the high and the valued animal on a lot. We see 200, 300 and many things up to 400 bucks. It can go higher, but I'm not talking about extremes here. I'm talking about what you see every day. So we looked at trying to get involved in value-added programs and help our customers get more money for their cattle. And that's exactly what we were able to accomplish.

These cattle, because of those highly inheritable traits, they can do these things, become involved in these programs. And what really concerns me for a lot of my customers, they're not on the same program. We have some U.S. premium, we have some using a grid in other markets and other places.

The idea is that they have lots of options. And these programs are not only helping their bottom line and helping their profitability, but I see young people coming back into these operations. When I've made trips to affiliate meetings this spring, I've seen quite a few young people. I didn't expect that. But I see them coming back because I think they're learning how to manage their inventory. They're learning how to manage their risk, and obviously they're bigger operations. They have to be. There's more families involved when they come back.

So there's some fundamentals here that we can't forget. I don't want to take up a lot of time on this. I think I gave you some background on why we did it, what we see. I can tell you that the value per head over the cash market in these programs -- many of our customers doing it are doing it very consistently. On the conservative side, 40 to 50 bucks, many on 70 to 80, occasionally better than 100 bucks a head over the cash market.

We've seen it -- the numbers were mentioned to you earlier. These folks I'm talking about are small to average size producers. I think by most standards would really be considered small. So these programs are very essential. And as a unit holder in U.S. Premium Beef, does that make me or my customers a packer because U.S. Premium Beef does own a share of national beef? So if we're a packer, it destroys programs that were absolutely essential to these folks that I think are in a better financial position and doing a better job in terms of the way their banker would look at their operation.

I've seen it. I've seen the success in what they've been able to accomplish with it. So that's one thing. And also with those type of programs, there's an annual commitment of a certain percent of those units. Two U.S. Premium Beef, for example. Well, obviously that's more than 14 days out. Would that not be permitted anymore by these proposed GIPSA rules.

So you have those situations. And then I don't want the opportunity taken away from me if I commit some cattle to U.S. premium not to be able to commit other cattle in the cash market or any other marketing arrangements I would like to have. Thank you.

MR. MACDONALD: Let me follow up, particularly on behalf of my crowd of suits over here who may not understand the markets as well. Do we need marketing agreements for the types of value-added programs that you're talking about or can the same goals be arranged through cash markets?

MR. RISHEL: I don't see it happening in the cash market. It didn't happen before. I could say that on occasions in a cash market over the many, many years, you might on a situation have a particular instance where a buyer for a packer might have some prior history on a set of cattle, and, therefore, might bid just a touch more because he thinks that they'll probably do the same thing again.

But I will guarantee you, it's still a guess. I think I've got a pretty good eye for livestock. And when you look at confirmation, a lot of people out here are the same way. And you think about the muscle that's in them, the retail product. But you're not really going to know that marbeling that's in there, the quality grade that creates the value. And it's not the appeal that you really are able to figure or know what the real value of those individuals are.

And the business that I've spent the last 25 years in, and many of our customers, is a business of not price discovery, it's value discovery.

MR. MACDONALD: Let me get to the rest of the panel. Do cash markets give appropriate quality incentives?

MR. COBB: Our experience with CDP is that we're not only a live calf seller. We market a lot of volume on negotiated grids and on a risk basis as well. So I think when we start talking about premiums, you've also got to consider discounts. Let's set that aside for a second. The base price generates at least 90 percent of the value of the cattle, folks, 90 percent. We have to spend more time focused on that 90 percent. Yes, let's go satisfy consumer demand and be market driven and deliver high quality product for our customers here and around the world, but we have to also consider that procurement behavior region by region that affects the base price -- and real quick, look what's happening, look what is happening right now region by region as it relates to non-negotiated volumes.

In Texas, right now we're running at about 71, 72 percent of the fed cattle market marketed on a non-negotiated basis. In Colorado -- folks in Colorado, it's a problem. It's 80 percent right now. Kansas is 63 percent. Those numbers relate directly to the value of the base price whether you're negotiating in the open market or the base price of non-negotiated cattle.

MR. MACDONALD: We still want to focus in a bit on price discovery and base price and manipulation of base price issues. But I do want to get some focus in here on whether we can get appropriate quality incentive in cash markets. And I'd like to see if we have anybody else.

MR. HERRING: Let me add just one other thing. People who sell in the cash market want the risk of ownership to stop at the gate. And that's a choice that they make. The folks who don't mind and are trustful of the packers' ability to break that animal up and value the carcass and send them something back do it another way. And just so everybody knows, it's a transfer of risk question as well.

MR. MACDONALD: Jim.

MR. RISHEL: Could I jump back in? Because I agree with what Bruce said down there when he said discounts in the marketplace. And I'm here to tell you that those of us that are involved in these kind of programs accepted the risk in the marketplace in the form of discounts for the premiums that were available for the right kind of cattle. And they're huge premiums and they're very, very worthwhile.

So you're absolutely right, there are discounts and there are premiums, and that's exactly why the cash market ends up being an average of the population, because they make the premiums in a lot of cattle cover the discounts.

So we're not -- we wouldn't disagree at all on that. And that is part of the deal, that we believe enough in the cattle, the genetics, and the way it repeats itself. And it does, it works. We're willing to take that risk.

MR. MACK: The only problem with a lot of the grids and a lot of the premium structured bids is that there is twice as much of a discount as there is a premium offered. And it ain't all up to the packers. Some of it's up to the grader and things like that.

One of the things with price discovery if the packers would choose -- they were told this years ago already. If you go and pay for meat based on what that meat brought at the wholesale price level, you'd have true price discovery, and they'd still be able to make their margin, and the producer would get paid for the quality that he produced.

MR. RISHEL: And now I ask you, it's very possible that the wholesale choice box beef price and the retail case price could eventually determine the price --

the cash price of cattle?

MR. MACK: They've told us that for 15 years. Rosemary Muckle (phonetic) told me 12 years ago or whatever, never going to happen. I don't know.

MR. MACDONALD: Let me jump right in while we're on that topic, because I remember hearing earlier, I believe James Herring, you told me that your base price was cash basis; is that right?

MR. HERRING: Sure. Most of these formulas are based off the cash, but that's not the only way it can be done.

MR. MACDONALD: I mean, do you see a shift towards --

MR. HERRING: I see that if the cash market becomes an irrelevant price and everybody on formula is very attentive to that, our antenna is 10 feet tall on the cash issue. If it does not convey appropriate value, then nobody in the formula business is going to stand for that, and we'll find a better way. Our differentiation up here on this panel is we don't believe it's the government's job to do that; we believe it's the industry's job to do that. Simple as that.

MR. DOMINA: I'm not sure there's a disagreement about that point. The question is: Why won't the packers establish the price in a visible market so you can see the bidding happen? Why isn't it transparent, and why isn't that transparency voluntary?

And if it's voluntary, it doesn't take regulation. Why is it always reported strictly as history?

MR. DOPP: Well, I think one of the reasons is, and we heard it earlier from several people, willing buyer, willing seller, be a private transaction. This is not the government's role.

MR. DOMINA: There's nothing more private and nothing more public and nothing more fun than an auction with an auctioneer, and that's the way this business grew up, and that's the way this business works best. Those are private treaties. And the only reason it doesn't happen that way now is the packer does not want to expose the packer's bid. It's not got anything to do with the government. That point is fundamentally incorrect.

MR. MACK: If you've got that one bid there, you're a seller. Many times I wouldn't call you willing. I mean, it's almost like having to do it with a gun to your head.

MR. RISHEL: Jim, I might jump in here if I could. I want to put a pitch in for the Big Red, Nebraska. We talked about -- yeah, there's at least one more out there. We talked about the value of mandatory price reporting, and we believe in that. We're all over that. We think it's very important. We'd like to see it used, looked at, studied all the time, tickled it's being renewed.

But we've taken it one step further when these folks talk about not knowing what the packers are bidding. I want to share with you the example of cattlemen taking care of their own business. And in Nebraska, our Nebraska cattlemen have a mandatory or market reporting service that people can join. Maybe you guys ought to move to Nebraska and join this thing. And it is a minute-by-minute daily update of the bids in the marketplace.

This is a case of us taking care of our own business, creating systems that add value to what we do, and we're talking here about whether they're cash, whether they had a source-in-age on it, whatever the value was, what the weight, steers, heifers, whatever. It's a marketing reporting service that we have, and we're very proud of it. And it's a way that we help those producers in our country.

MR. MACDONALD: Let me shift just slightly because I really need to bring Charlie Rogers into this, who seems reluctant to argue with everybody else on the panel.

Charlie, your business involves auction sales of horses, cows, feeder calves. These fundamental changes that we've talked about in the meat packing and fed cattle business and price back to cow-calf, do you see that affecting your business and markets in the southwest?

MR. ROGERS: Well, actually, you know, we can -- we could take it to that level. We're not -- I don't know that we're there yet. But if we continue to see the cash market dwindle, it will have a dwindle-down effect into the feeder market and down into the calf market, yes.

MR. MACDONALD: We spent a little -- we've touched over several times here on price discovery. It shifted a little bit towards spending effects of the shift. Let me start a related issue with Bob Miller. And that is, with small number of packers and people still pricing off the cash market, are you concerned with manipulation of cash market prices that may, therefore, affect contract prices if they're based off the cash market?

MR. MILLER: Bob Miller or Bob Mack?

MR. MACDONALD: Bob Miller. It says on my list.

MR. MILLER: I would think it would have some effect. I'm not really -- I can't answer that really intelligently, but I would think it would, yes.

MR. MACDONALD: How about that, Bob?

MR. MACK: There's a lot of incentive to do it. If you've heard most of these formula programs, most of value-based programs, all go in and are based on that cash price, so there's a tremendous incentive. Everybody can talk about premiums in these programs, but the big question is, how is the base price established before you start adding premiums. Because I've worked with guys on this, and sometimes, you know, it's questionable because if the base price isn't a realistic one, the premium that's quoted isn't a realistic one.

So there's a tremendous amount of incentive to go and manipulate that price because of the effect it has on other transactions when you have a thin market. That's why hopefully when the Big Red go out on the field Saturday they've got referees on the field. It would be nice if USDA would come in and provide some referees for this cattle market.

MR. DOPP: One observation, it seems to me the referees are there. Again, if you go back and look at the most recent GIPSA report, there's an extensive discussion about this very elaborate reporting program, pricing analysis program, for lack of a better term, where they go into great detail about how they analyze virtually every transaction on a weekly basis. If there is some anomaly in their view, they investigate it. So I would suggest the referees are there and they're doing their jobs. They have not found anything.

MR. COBB: Jim, can I comment, please? When you're talking about a thin cash market, it really is quite simple, and it's -- you go to the seller who at that point in time is the most distressed. And that's the way it has been functioning in many areas. And, again, it's not unique to the cattle industry.

But if you have a distressed seller and that distressed seller is offering a very thin market. That distressed seller sets the price for the entire market.

MR. MACK: One of the problems when it comes to the refereeing, if you look at these court cases, juries have said there's been harm done. I mean, they become the referees. The judges have come in and overturned it because they said it didn't affect everybody in the market. That being the case, if you were a prosecutor out there and somebody murdered someone else, you'd say, I can't prosecute him, didn't have any effect on everybody else. It just -- only one it hurt is him. So let him go. And without this clarification, that's what we've got.

MR. MACDONALD: Want to go?

MR. DOPP: Sure. Well, as a starting point, we have fundamentally different statutes here. That's one point. And let's face it, that's the elephant in the room, right, the GIPSA rule. And some people have alluded to it already, you know. On level you're right, Bob, eight different federal appellate circuit courts have said this is the standard. They've looked at it carefully. They've analyzed it. I know people up here aren't going to agree with me, but that's what they've concluded. And the fact of the matter is the way the system works, the statute is what it is. It's been interpreted by all these courts. The most recent ruling was on May 10, 2010, the tide has become a tidal wave, to quote the 6th circuit. It's well-settled law.

If people don't like the statute, that's fine, but let's have that debate not through some bureaucratic feat, but let's have that debate in the halls of congress where it belongs.

MR. DOMINA: We've now found a place where I can agree with Mr. Dopp, and that is that the GIPSA rules are not the focus of this meeting. This meeting was scheduled a year in advance of release of those rules. The statute about which we are talking was passed 89 years before those rules. The statute fell into disuse. And any law that falls into disuse is just like a dam in an aggressive stream that you don't tend to. If you don't tend to the dam and take care of it, it gets washed away. That's what's happened here.

On May 10th, in the Terry case, the 6th circuit decided that because one poultry producer insisted that he be permitted to be present at a Tyson plant to watch the birds he was delivering be weighed, which is his precise right under the regulations. He was scheduled for that weighing at 2:00 a.m. twice, and they couldn't reach his birds. So they got weighed without him. And he filed suit and the United States Department of Agriculture, and the Grain Inspection Packers and Stockyards Administration supported the producer in the case. And the Sixth Circuit said, Because weighing your birds didn't affect the whole market, the statute doesn't apply to you.

Now, here's where I agree with Mr. Dopp. The rules that are going to be debated at another meeting are an attempt to reinvigorate the statute, but they are not a statute. There has to be a statute. The problem for the producers who need a stronger statute is the packers have lobbyists.

MR. DOPP: So do the producers, David. I work with -- you do, too.

MR. DOMINA: No, I don't. I'll make that clear. I don't.

MR. DOPP: To ignore the fact the rule's out there in this context is, I think, a bit -- you know, I'll leave it at that. But the fact of the matter is, again, this is an exercise that we are troubled by. We don't think it's within the purview of the Department of Agriculture to try and overturn long-standing judicial precedent, and we will take issue with that, and we think it's inappropriate.

MR. MACDONALD: Let me bring us to another sensitive issue.

MR. DOPP: May I add something?

MR. MACDONALD: Sure.

MR. DOPP: If I recall correctly, the secretary said this morning comments about the GIPSA rule would be part of the record for the rule making, so I think the GIPSA rule is very much in play in this setting.

MR. MACDONALD: Sure. Let me bring it to packer ownership of cattle. Since 1999, according to GIPSA data I see, packer-owned cattle accounted for 5 percent of fed cattle volumes. Now, we've heard allusions to packer ownership of cattle throughout the day. Let me throw this out to the panel. I'll start with a straight question. You think packer ownership affects competition and pricing in cash markets or marketing agreements? And if it does, tell me how. Anyone want to take that?

MR. COBB: Can I start briefly? I think we need to look at the total body and not negotiate supplies and not just one method. It's a combination of all non-negotiated supplies, whether it's the formulated arrangements before contracting or the packer owned. Those are the tools that are used in an attempt to reduce the competition in the marketplace.

MR. HERRING: We contract to producers just like you all sitting in the audience, as much as 12 months in advance. I've said publicly we've contracted cattle that haven't even been born yet because our database allows us to understand what a producer actually has and produce it.

So we're a little nervous that the contractual part of these regulations may impact some of our business downstream. Obviously, for us, for our company, the ability to assure supply is a solution that we've passed forward to the packer and to the retailer. And those two entities consider that a benefit, particularly with the kind of cattle that we produce.

So when you say "contract," I think all of us need to be careful, because that's a -- that's a very valid way to reduce risk in any operation, cow-calf, stocker, feedlot, et cetera. And we would be very nervous about impacts to contracting forward supply.

MR. DOMINA: Jim, could I very briefly -- this morning one of the panelists observed that in the 5 percent of the hog market that has traded in cash, approximately half of the cash trades are packer to packer. Now, if that trading is open and transparent and everybody can see it, that may be acceptable. But if it's not, it's unacceptable and drives the price down, and that's a risk to the cattle producers, too.

MR. MACDONALD: All right. I've got a little over four o'clock, which is the time we were scheduled to end. I think our panel has done a nice job of keeping everybody alert and cheering one side and the other through this near the end of a long day. So I'd like you to give a hand to our panelists for coming.

(A recess was taken from 4:03 p.m. until 4:19 p.m.)

MR. FERRELL: Let's go ahead and get started right now for the second public testimony period of today. Just a couple of quick comments before we go ahead and get started, if you could go ahead and take your seats.

This will be the second opportunity to provide comments. For the folks who were at the public testimony who had been lined up at the microphones before and had their numbers up on the screen already identified, if you could -- if you-all could go ahead and come up to the microphones and we'll -- we'll pick it up where we left off. And then when we get those individuals completed, we'll change up the screen with new numbers. And then you'll look to see whether your number is up there and we can go ahead and get started then.

I just want to say that we -- in addition to the opportunities to provide a comment right now, we also have four computers -- stations that are set up in -- just outside this room and also in the -- in the other large rooms that were the spillover rooms. And if you didn't want to wait to provide a comment, then go ahead and go to the computer and just submit your comment. We have volunteers around with green shirts, and they can help you provide that, if needed.

So with that, why don't we go ahead and get started. I do ask for your cooperation, though. We've got a large number of people who want to provide comments. And the only way -- we're not going to be able to accommodate everybody. But we want to make an effort to accommodate as many people as we can. And to do that, we've got to have you limiting your comments at two minutes each. And -- because for every person who runs over a little bit, that's someone else who didn't get to provide a comment. So please limit your comments to two minutes.

And for that -- if individuals could take their comments -- or if you're making those side conversations, if you could take those out in the hallway, so everyone can hear people at the microphone. So with that, we'll go ahead and get started over here.

MS. MUCKLOW: My name is Rosemary Mucklow. I'm the director emeritus of National Meat Association. I've been in the industry for almost half a century. I'm 78. I want to tell you that the greatest successes I have observed over that time have occurred where there have been partnerships between producers and packers. Those partnerships have led to better products and expanded sales to consumers, our most important customers.

In the '60s, livestock and meat industry went through huge structural changes that were the death knell for those large old stockyards and slaughter plants close to metropolitan areas. The old facilities were replaced by slaughter and processing facilities in the countryside that produced chilled vacuum-packed cuts of beef, pork, and lamb, extending the shelf life from less than ten days for swinging carcasses to an astonishing three to four weeks.

Livestock producers were no longer nameless individuals whose animals were dispatched on a truck to a market and sold on the average to a nameless buyer representing on old-line packer. Because new packing plants were in rural areas, producers began partnering with packers to provide specific characteristics and livestock traits which would then provide marketing advantages all the way to the retail store and the table. These partnering programs led to dedicated branded programs, such as certified Angus beef and parallel legal programs for pork and lamb. They helped families prepare meals quickly.

Over the 50 years, I've had a ring-side seat watching history being made. I've seen producers and packers working together in partnerships, using contracts that ensure each could make a reasonable living in the very competitive industry. Together they've done a superb job meeting the expectations of the consumer at the retail store and in the restaurant.

I'm especially proud of how NMA members, large and small, have partnered with producers to develop programs. And I suggest to you this has resulted in the organic, never-ever, source-verified, grass-fed and others. We're proud to have as members people like Laura's Lean, Buyer Natural, Niman Ranch, Morgan Ranch, Tall Grass Beef, Panorama Beef, Maverick Ranch, Coleman Natural, Carlton Farms --

MR. STALLINGS: If you could finish up.

MS. MASKLOW: -- Creek Stone and the lot. The greatest successes that I have observed have been with partnerships between producers and packers. Let's build on the success of the partnerships in expanding consumer demand for red meat.

MR. STALLINGS: Okay. Thank you very much.

MS. MASKLOW: And if anyone would like a copy, come to me.

MR. SMINK (phonetic): My name is Jeff Smink. And I'm the fourth generation to live on and operate my family's farm and ranch in Western South Dakota. We are predominantly a cow-calf operation. Today, you've heard comments from individuals who are in favor of GIPSA's proposed rule. I respectfully disagree with these individuals.

For the last several years, our calves have been marketed by using a grid system. At times, the spread between select- and prime-graded carcasses has been as much as $450 a head, and the grid has outpaced the cash market by as much as $200 per head. We have to pay serious attention to breeding our livestock and continually improving carcass yields and grades. For the small producer like me, the grid system for marketing cattle offers an opportunity to manage my risk in addition to the highest returns and the best opportunity for profitability.

If this proposed rule is adopted, I fear that our ability to market our livestock on the grid could disappear and that this unintended consequence would hurt most of all the small producer who has been striving to improve the herd and offer a superior product. Let me explain. I believe that by amending Section 201.94 and requiring packers to maintain written records that provide justification for differential pricing or any deviation from the standard price is an attempt to open the door for litigation against our packing industry. Instead of subjecting themselves to this risk, I believe packers will offer one low commodity price for all cattle, thus avoiding the endless lawsuits.

The unintended consequence would be the disappearance of the grid system and the premiums received by progressive minor producers. If this proposed rule is adopted, I fear it will lower the price of better performing cattle to the level of basic commodity cattle. Please, for the sake of my children who represent the fifth generation of our operation, do not fence in their future by severely limiting their options for profitability. Thank you for listening.

MR. WALDNER: Hello, everybody. My name is Jake Waldner. I'm from Heartland Colony, vice president and director of Montana Hallmark Association, Montana Pork

Producers Association.

In my part of Montana, pork producers and production is small by some comparison. Producers are spread out and market opportunities are limited. It is extremely important that we work together in groups and make arrangements with and for transportation by our harvest partners. To move pigs 1,300 miles is essentially impossible. Full loads and full value of pigs are important. 8,000 people depend on our ability to negotiate together and make marketing agreements. 55 percent of our income is from pigs.

Our lenders depend on us to be involved, to help our pork operation keep our financing. Eliminating this business totally eliminates pork production in our area. We are concerned that the proposed rule GIPSA has out for commencement will reduce opportunities and then help -- and would not help the producer and will hurt the producer. This GIPSA rule will not help to pig improvement in Montana. Thank you.

MR. MINOR: Good afternoon and thank you for this opportunity to speak. My name is Casey Minor. I'm a third-generation registered Angus breeder from Sioux County, North Dakota. And speaking on behalf of the North Dakota's Stockmens' Association, we're 2,800 members across the great state of North Dakota. We're 81 years old. And as the stockmen's trade organization, we are in full support of the concept of GIPSA. However, we have some concerns about the vague language that exists in it.

If you will, picture this whole industry as one big game. We believe the government should not be a player in the game. However, they should be more of a referee. And if they're going to blow the whistle and call a foul on somebody, we have concerns about the GIPSA being the rule book they go to. We do believe there is -- they have to have some intervention somewhere and they have to step in. But we do have concerns about the vague language in the rule book, as a lot of others do here today.

But the overall concept, we do support the -- support of transparency and more competition in our markets. We also have concerns of the unintended consequences, so to speak, in some of the language. One example we'd like to show is that we're buyers buying for one packer.

In the Upper Midwest, the fall run of cows, they could have 1,000 cows at one particular auction barn. And there might be two or three order buyers there to place them cows. And if that order buyer has the opportunity to buy it for only one packer, that takes them out of market. We don't feel other buyers are going to show up just because they can only buy for one. When they have three different orders, who gets the cattle? Whoever gave them the best order.

So we have a concern about that and others. But we support the overall concepts of it. And it's very hard, as producers, to read the law, comprehend it, and then look into your crystal ball and see how it's going to affect the way we do business in the future. So we -- as referees, we encourage you to use caution when you're engaging in refereeing.

MR. LARSON: Good afternoon, my name is Daryl Larson from McPherson, Kansas. My brother and I are cow-calf people. We also have a dryland farm operation. For the last 10 or 12 years, my brother and I have retained ownership on a portion of the cows -- calves that we raise. Out of the total of number of years, we probably made money a couple of years, broke even five or six years, and lost money more times than we made.

Now, in my opinion, the competition is basically gone at the buying level because they say we still have the choice of the cash market. In reality, the cash market is basically worthless. Whether you have average cattle or top-quality cattle, our cash market is worthless. So the only thing we -- the only choice we have is putting them on a grid or some other form of marketing arrangement.

If the packing industry was trustworthy, in my opinion, we wouldn't need any of this. If humankind could regulate themselves and be honest with everybody, we wouldn't need this. But for 100 years or more, there's been a problem with the packing industry not being honest with us, as producers, and it's time that we have some sort of rules to protect us from the people in power. Thank you.

MR. METZGER: I'm Doug Metzger from Kansas, and I've been in this livestock industry for 60 years. I'm one of the old guys that started off in cows when he was a little kid and then raised -- went on to raising turkeys and hogs and beef cattle, and I've still got them all. But the last two years have been the worst that I've seen in the industry with the high-priced grain.

But when we had open livestock river markets where we could all take our stock there, why, everything was more competitive. We had some good years; we had some bad years. But it was competition. And like in the pork industry, turkey industry, there was a lot of competition in the '50s, the '40s, and the '60s. And then the big companies started in with the contracting, and things started going downhill. And now our turkey plant in Gibbon, Nebraska, went broke last year producing commercial turkey.

Well, I produced a turkey for Heritage Foods in New York, especially turkey like we did 50 years ago, and I get a pretty good price for them. And the same way with the Berkshire hogs like Chris Petersen does. But there is no competition today like there was back then. I support what Daryl Larson says over there. It's just concentration and we don't have any way to set a market price anymore. And it's basically since packers left the river market and went to the country. I said -- way back in the '60s, I said, They're not coming to the country to give us more. There's some reason they went to the country. Thank you.

MR. BLAIR: My name is Rich Blair. I'm from Sturgis, South Dakota, and I'm a cow-calf guy. I'm a cattle guy. I've fed cattle. I've bred cattle. I've artificially inseminated them. I've embryo-transferred them. I've sold them to the packer. I've bought them from other producers.

I'm against the GIPSA rule because I think we're chasing the wrong boogeyman here. When you -- you know, Secretary Vilsack asked the question, How can we keep young people down on the farm? How can we make rural America strong again? And I think the answer to that, number one, is USDA needs to aggressively go after export business. Since 2003, since the mad cow and we lost our export business, I think it's cost us $100 a head on average.

You know, another big problem in the ag industry is costs. I mean, costs for fuel, costs for health insurance, costs for input. I mean, the ethanol program, whatever it's done, it has increased costs at probably 150 bucks a head for feeder cattle in a feedlot. The cow-calf guys are here today telling you it's not working. And that's their problem; it's not working. But to me, they're chasing the wrong guys. They're chasing the feedyards and the packers. And the feedyards and packers are saying, Hey, guys, we're not stealing all your money.

And I've fed cattle. I believe them. I don't think they are. I think the problem in the cattle industry -- we've got to get together. We've got to push exports. We've got to push demand. USDA can help push demand. I mean, the food pyramid, I think, is a problem. I mean, the beef industry and the pork industry -- I mean, in total, has taken a bad name. Help us tell that story. And that's my comment.

MR. LAMB: My name is James Lamb. I'm one of the young farmers that returned back to farm. I'm from North Carolina. I'm a contract swine nursery producer. I came back to the farm at the age of 16 after my father passed. I started out as an independent. But I saw that I couldn't compete with contract growers. So after college, at 25, it was hard to get money without a contract. So that's the route I've taken.

I've had nothing but a good relationship with my integrators. In the late '90s when prices were $0.08, I still got my contracts. And last year, my integrator was leaving $20 per head that he marketed, and I was still able to receive my payment, which allowed me to stay in business and stay on the farm.

My fear with the GIPSA rule is that by limiting the contracts -- maybe unintentionally -- it might make it more difficult. If they wanted to change a contract, they may do more vertical integration with the fear of getting sued if some legal means said that the GIPSA rule was to pass. So on that note, I'm not in favor of passing the GIPSA rule. Thank you for your time.

MR. FOSTER: I want to thank everybody for hearing us. I'm Jim Foster from Missouri. I'm 55 years nonstop raising hogs -- also cow-calf.

I'm here for one reason; these guys on this picture. These are my three grandkids that are absolutely nuts about raising hogs. In my county, we had enough hog producers to fill the fellowship hall of my church 20 years ago. Today, there's six. These little boys, their daddy, me, and another guy. Why? Cargill owns almost all the hogs in my county. We used to have two other integrators that owned hogs. They got in deep trouble. Cargill owns them all.

Now, down a couple of counties to the south, there's a collection point that's one of the few in Missouri where they get any hogs. They get about ten pot loads a week. The major -- one of the major four packers pulled out a business at that place because we got tired of making four or five checks and keeping track of the hogs on a pot load. That tells me that you're going to have to have 180 head of hogs every two weeks if you're going to get them for better.

Somebody that's against these rules, come tell my three grandsons that they're going to start out with 250 sows to be able to get bid on for those hogs. I can't believe that anybody would be against all the rules. I'm sure they've got to be tweaked. And I appreciate other people's opinions. But the rule where you've got to show injury to everybody is like the murder -- you know, you don't show injury to all of the other people because you murdered one guy. That's crazy. And the arbitration, my goodness. If you guys are in contracting, please look at that stuff. You'd better think about it.

There seems to be a thought too that all these animals are going to be commodity priced. There's going to be no differentiation. I want to bring up the Missouri price reporting bill which some have said, This is simple. It had 12 exemptions. There was a lot of room to prove that -- why they paid different prices. So I'd say we've got to go with some things. We need a referee. Thank you.

MR. HOUSTON (phonetic): I want to address most of you here. My name is Otis Houston, and I'm from Buffalo, South Dakota. I've only got one contract. That's with my wife. We raised nine children. We did it on 1,520 acres of land. We've added 1,000 acres to that.

When I raised hogs and farmed, we did that for 20 years. I've seen lows and I've seen highs. When Smithfield Foods came through and bought sows for $8 a head and sold them for 480 on the shelf, I slid "Successful Farmer" across to my wife and I said, That's it; hogs are done; we're going to move to another entity. We're in the beef cattle business now.

We hay out all of our cows. I think we've got some of the top gaining calves in my county. I don't think anybody's going to top our weights. All I'm asking here today if we don't have a bottom floor on these markets, if feeder packers can come in and steal any calves some day like they stole my hogs, I'd just as soon sell the cow herd tomorrow and I'll go do construction. There is no need to keep running a business that's unwelcome in our nation.

Children, I've done the math on it. I raised these nine kids on 1,520 acres of land in Harding County, if any of you have been there. If you multiply that times -- or divide it into the acres in that county, we should have about 5,000 kids raised every year. We just put in a new school. I could fill that if I had more men like me. We just need a bottom-line market. Don't steal our cattle. We'll fill the schools.

MR. SCHMIDT (phonetic): Good afternoon. I'm Mack Schmidt from Omaha, Iowa. One of these dying breeds. I'm an independent hog producer and I'm proud to be a farmer. We raise corn, soybeans, and hogs. We work at about 30,000 hogs a year and we have no contracts with anyone. We -- I am entirely on the open market. I have very good relationships with the packers, and I've sold to all the major packers in the Midwest this year, and I have a good working relationship with all of them.

The comments I wanted to make this morning -- or this afternoon here we go back to what Attorney General Holder said this morning when he asked us, We need to return to our core values. And even Secretary Vilsack returned to those core values. And I'd just like to touch on some of those.

Independents, that's what we are as producers. Self-reliant, you bet. Don't stand in front of us. We need to figure it out. Let us figure it out and we'll get the job done. Self-discipline, we exercise that. We know right from wrong and we know enough to respect others. These are all values that were taught in us. But as we seek to return to our core values, we're talking about personal values. And this doesn't necessarily carry over. Because in our economic situation, time has marched on. If this hearing was decade ago at least, it might have been more relevant, as far as I'm concerned, in the hog industry.

Today, as I look at it, I wonder, Who am I to tell these other people who are -- as we just heard the young man from North Carolina explaining he's found his place producing for someone else. He has found a way to manage his risk and raise his family. I think we need to step back and look at all of those changes that have taken place and we need -- in our own operation, we figured out we weren't very good at farrowing.

We had 1,500 sows. We contracted with a gal that's got 1,200 sows. I'll publicly admit I'm embarrassed to say she produces 100 pigs a week more than we ever did. So we found out that's not what we're good at. And we gave it to her and we stepped back. Two comments. Let the market tell us what works best --

MR. STALLINGS: I'm sorry.

MR. SCHMIDT: -- and government regulation will not bring the desired results.

MR. STALLINGS: Thank you.

MS. CARTER: Good afternoon, my name is Brandy Carter. I'm a cow-calf producer from the Flint Hills in Kansas. I'm here today as the executive director of the Kansas Cattlemen's Association. We have 1,700 members in the state of Kansas and several others in other states that are supporting our cause. But we are the largest cattle-producer organization that is solely producer driven and whose sole purpose is to represent producers in our industries in the state of Kansas. We receive no dues from packer-owned cattle.

In 1998, our organization was founded because there were a number of producers who saw the movement into large amounts of captive supply in the industry. We began seeing lower cash markets and a lack of market access. There was a bus full of us that came yesterday. We started about five o'clock in the morning. And these producers were not forced to come here. 40 of us decided to get on a bus as producers to let you know that we wanted to support your efforts to improve competition in our industry and to provide fair marketing opportunities for producers.

We need transparency in the market. Cattle are traded on the open market. Behind-the-scene deals and a number of captive-cattle deals, including "high of the week" do not allow for timely transparency. This kind of information only allows misinformation for producers to make true business decisions. Packer ownership of cattle does affect competition and it does affect the markets. When packers own cattle they do have the ability to pull their cattle and they have the ability to stay out of the market. Not only does this drive the price of cattle down, but it reduces market access. But more importantly, the problem is the non-negotiated deals. Negotiation is critical to maintaining our markets.

We as producers need transparency, we need competition in our industry, and we need enforcement of the Packer & Stockyards Act. Thank you.

MR. FERRELL: I would ask if the next display of ticket numbers could be put up on the screen. And if you see your number up on the screen, to go ahead and line up at the microphones. So if that could be done now, that would be helpful.

So we'll start over here.

MR. WERTISH: Gary Wertish. I'm the vice president of the Minnesota's Farmers Union. I'd like to thank the administration and Secretary Vilsack and Attorney General Holder for holding these important workshops on agriculture. On a proposed GIPSA rule, I guess we'd like to speak in favor of the rule.

Earlier this summer, I attended a Minnesota cattlemen's meeting in West Central Minnesota. And in the evening, at the banquet -- or supper, about 500 or 600 people attended. And there was a Tyson cattle buyer who spoke to the crowd. He made a couple of comments that were very concerning to us. One, he told the producers he was paying too much for the cattle. Then he started -- too much for their cattle.

Then he started talking about the proposed GIPSA rules and how it would affect them. And he was encouraging the producers to write their comments during the comment period. But the comment that really struck me, he said, If these proposed rules go through as proposed, we will have to follow the rules. I was told that at a public meeting, West Central Minnesota, by a Tyson cattle buyer.

Now, you know, it's an election year. We all should -- I guess we're all getting used to a fear of politics. We've heard a lot about fear of politics here on the proposed GIPSA rule. The one talk -- the one fear-of-talking point we heard a lot was about the vagueness of the GIPSA. Well, there's one thing I think we can all agree on here in the room. There is not any vagueness when you drive around the countryside and see the empty buildings -- the empty feedlots, the empty buildings and farmsteads that at one time families -- farmers were raising their families, producing livestock, being involved in a local community. I think there's no vagueness about that at all. Thank you.

MR. BUHL: Good afternoon. I'm Don Buhl from Tyler, Minnesota; a wheat-to-finish hog producer. We are -- we own all of our own hogs. I want to reinforce a couple of things very briefly. The thought about the regulation impact on industry, I think, is significant. I want to agree with those comments made earlier. The other thing is we have three trade agreements that are pending that have been sitting there, and that is important that the administration get those approved.

As far as price discovery, the comment was made that 5 percent of the hogs are in a negotiated market. It was pointed out to me that does not include they are traded between packers. In the pork industry, those prices are reported, but they are in excess of the 5 percent. Having said that, among producers like myself, we agree that that number needs to be a little higher. And I think that it's our responsibility as producers to take it upon ourselves not to contract, but to have some hogs that are always available for open market in every group. So I want to make that very clear.

I am very uncomfortable with the government legislating that because I'm worried about how that would be implemented. We need to have, in my personal opinion, the ability to have a marketing contract. And so I'm concerned if the GIPSA rule makes that a lot more difficult to handle. Within that contract, I think it would be good not to have the ability by either party to alter that contract during the duration of the contract without the approval of both parties. Otherwise, you'd have the potential for mischief.

I want differentiation between production and marketing contracts. Because those issues can be very, very difficult, very different. And also, between species there are differences in what the contract issues might be. I have a good relationship with my contract growers and I don't want to have to turn them into the authorities just to work with them on a problem. It's something I've seen and it concerns me. Thank you.

MR. RAINEY (phonetic): I'm Gary Rainey, Southern Colorado. These are comments that came to mind as we had many fine panelists and speakers today; questions that crossed my mind and I -- I guess these are the answers, in my mind, of what I saw.

I'm from a farming-ranch family of which I am the fifth generation and my son is the sixth. I've been actively involved in the cow-calf operation, the stocker/feeder, and the feedlot end of the business. In all of these, I strive to identify my customer, the person the -- the person or entity I will be selling to. I have not asked them to come identify me. I also buy feeder cattle for -- excuse me. My comments from these observations are things that -- over the last 40 years that I've watched the transition of this industry from a -- and be refined into a much more mature industry.

In reference to the young producers entering agriculture, there are barriers to entry from huge capital requirements, barriers to entry from estate taxes, barriers to entry if an operation is of an insufficient size to support one family but not large enough to -- and especially not large enough to accommodate father and son or granddaughter as they wish to enter the operation.

We also have to recognize that operators that produce at an older age are not turning the operations over to the younger people, the new generation, as often as they -- or as -- in the shorter time that they used to.

Some impossibly young producers do not make all solid business plans that are marketable and bankable. In all of these cases, who do we blame for these? Can we really blame a packer or a retailer for things that are a social evolution within our business -- change and structure of business that has evolved over time?

I guess another example would be too we talked about concentration. We had a group of farmer feeders gathered together that bought a feedlot in our area. Did they do it to decrease competition or did they do it to be more efficient? Thank you.

MR. BLACKWELL: My name is Buddy Blackwell, and I'm in the livestock auction business in Cuero, Texas. I'm also the vice president of the Texas Livestock Market Association. The Livestock Market Association of Texas is the sole trade group in the state of Texas representing 115 member auctions, livestock movers and buyers. Livestock auctions are the voice of the largest livestock consistency in the state of Texas with approximately 100 auctions representing over 125,000 producers that marketed over 5 million cattle in 2009.

Livestock markets that continue to guarantee an open marketplace for competitive bidding improves the value of every class of livestock sold. Auction markets also help producers navigate the industry regulations, technology, marketing programs, and operate a vital link for the state animal health death protection, livestock research, and promotional programs. Livestock auction markets represent the truest form of competition and price discovery in the livestock industry.

Every day, thousands of producers sell livestock to the highest bidder in the open market. The cash market for livestock is largely established at these public sales. The importance of the competitive auction markets, particularly for the independent producer, cannot be underestimated. Recently, GIPSA published -- proposed rules that -- rule changes that would bring change to the livestock market transparency and open livestock trading.

Everyone understands and appreciates the delicate balance that GIPSA attempts to achieve between the competing forces of instilling more competition in the marketplace without doing harm to the structure that's already in existence. We do support the continued efforts of GIPSA and USDA to increase market competition and add transparency to the livestock market industry.

Particularly, we support the GIPSA rule provision that protect the cash market for fed cattle. The cash market for fed cattle is the price discovery market for all fed cattle, including those sold under alternative market arrangements. USDA and the Department of Justice must take immediate steps to protect the integrity of the cash market of fed cattle so it can function like the nation's auction markets to discover the competitive price of cattle. This is essential to protect against market manipulation, which causes lower prices in the cattle market.

And to close, about 10 or 12 years ago, it was one of the first concentration hearings that was held in St. Louis. I was eating dinner, sitting right next to Bob Peterson. And I asked him -- I said, Well, how do you think the meeting went today? He said, Well, Buddy, I don't have any animosity towards you or any of your friends; but if the P&S doesn't stop Monfort from feeding their own cattle, we're going to get it big time; and I'll show you what that will do to this industry.

MR. FERRELL: Folks, remember to keep comments to two minutes.

And we'll start over here.

MS. KNIEBLE: Good afternoon, my name is Mary Ann Knieble. And I am a commercial cow-calf, seed stock, and feedlot operator from Kansas. And this is our 132nd anniversary for our ranch. And our history is somewhat unique because we have always finished our own calves -- our own home-raised for harvest from driving them to the railhead to our current ownership in U.S. Premium Beef.

Our income dollars for our ranch has been generated from the beef we raise directly for harvest.

Past 20 years has seen significant change for us. Prior to these changes, our ranch was a smaller operation that was only one operator at a time. And conversely, we now have three family members involved. And I feel it's important to point this out because we're not working on inherited money, because we've tripled in size since 1990. And what has helped us to achieve our growth and ability to include other family members in the operation is how we sell our cattle.

We average close to $100 per head above the cash marketed premiums due to our management. That includes many different programs all of which have surfaced in the last 15 years. We sell around 450 to 500 finished animals per year, which is not a lot in the big scope of things. But that extra 40,000 to $45,000 a year in income makes a huge difference to the bottom line of our ranch, and it allows us to keep more family involved. And it's also rural development.

Now, it's been pointed out that the proposed rule changes will not affect the premiums available to these diverse marketing groups. And we do not agree with that statement. Unfortunately, we live in a litigious society. And the openings this rule leaves for filing unjustified lawsuits is unacceptable and potentially catastrophic. I also take umbrage at the reporting that these regulations would like to entail.

Our management practices that we utilize for the premiums that we do is a huge invasion of privacy. And that is the equivalent to -- it's our intellectual property, and it's not something I feel I should have to expose to the world for free. I hear people that say they want more transparency, and I equate that to not wanting to do your own marketing. We're a small producer and we found ways as many others have said they have in the room today. And they are open to everyone, but you do the work to seek those out. Thank you.

MR. NELSON: My name is Larry Nelson. I'm from Buffalo, South Dakota. Also, we -- I haven't raised any kids. But I do raise cattle and sheep. And I was not going to talk up here today, but there's been a couple of statements made about the sheep part of this thing that I would like to comment on. Mr. Rishel -- William Rishel, who was on one of the panels -- made the statement that because the sheepmen didn't promote their industry, they lost their industry. I've always been interested when somebody says that because it's generally stated by folks that aren't in the sheep business and don't know the history.

Sheep numbers in the United States peaked in the 1940s at 40-some million head. In 1954, Congress passed the National Wool Act which paid the wool incentive out to producers. Subsequent to that, a portion of that wool act was checked off and the old American sheep producers group promoted sheep for many, many years. We lost the -- that wool act in 1954 and then sheep promotion did stop. What happened to the numbers in those times? We went down to about 11 million head.

Now, by what measure is a promotion program successful that has those kinds of numbers? Now, that really doesn't have a lot to do with what we're talking about today. Mr. Harper made the observation that, What have we got -- what do we do to get more people in sheep; we're going to lose the industry. I'll tell you what you do. You pay people enough for lambs so that they can make money run. It's just that simple.

I've got -- there are a couple of cases in my county where people sold cattle and went into sheep because that happens. I'm sitting here and I hear statistics every day -- every week that the cattle numbers went down 2 percent per year. I've heard seven years, eight years, nine years, ten years. What we're doing is we're working for the cow-calf. And I think, Mr. Butler, that we do need to proceed to these rules and we've got to try something different if we don't end up -- or we'll end up just like the sheep people did.

MR. ANDES (phonetic): I'm Bruce Andes from Missouri. I'm a pork producer there. My family has been involved in this business. My dad specialized in the pork business back in the -- in 1954.

One thing I'd like to just reiterate today is that Missouri passed a livestock price discrimination bill back in '99. It took affect in '01. It was very devastating to our industry. It cost somewhere between 19 and 20 million in the livestock industry then. These GIPSA rules that are being proposed right now, it seems like they'll do the same thing. Guys, that was mistake. And I think you need to really look at that. Because you could do the same thing, and it wouldn't be just affecting the state of Missouri; it would be affecting the whole United States. And Governor Bob Holden had called a special session to clean up that mess that the legislature created.

You know, I've got a couple of kids, or whatever, that would like to come back to the farm. We're doing really well. We can compete with any of the integrators. We're an independent operation. We market with some other producers. We've got a very good cost structure. You know, I just don't want the government, you know, getting in the way and screwing up what we've got that's working very well for us right now. And I think, you know, if you kind of -- if the government could kind of get out of the way and wouldn't regulate us as hard, you know, you just turn us loose and you watch what we can do or whatever. Because we can flat produce in this country.

And to reiterate, if I would have your time and energy rather than working on this stuff, you know it seems to me it would make a whole lot more common sense to work on those free trade agreements and get those opens up. Give us a place to sell more product and we'll -- because we're a bright spot in this economy, the livestock sector. Thank you.

MR. FERRELL: If we could go ahead and have a new page ticket of numbers, and then we'll get started on those as well. All right.

MR. DAVIDSON: Hi. I'm Brian Davidson from Marathon, Iowa. It seems to me that all the money the government is trying to -- spending trying to stimulate the economy, that any new policy should correspond with progress. By implementing these proposed rules, it would limit farmers' abilities to sell their own animals and dictate terms of private contracts. Because of unnecessary costs of bureaucracy, the rules will stifle any incentive for innovation and eliminate jobs in rural America.

We need to be careful not to assume that if there's an issue with one portion of the industry, that a blanket policy is the right way to go. For example, my job as a grower sometimes requires me to sell on a Sunday or a holiday. Because I feed and specialize in an all-natural program, it allows my contractor to receive the premium because of the added cost to produce this product. This program also fills a specific consumer demand. The added red tape of this bill would raise consumer prices and reduce choices at the meat counter while penalizing our ingenuity and extra efforts.

The above example is a basic but sound business plan based on good, old-fashioned free enterprise. It seems the government gives us what we need to establish a good business model in one bill and then ties our hands in the next. The government should not micromanage our private business. This country is losing our world leadership status because Americans have become lazy and selfish. I'm saying any of us here are lazy, but we all need to start working together. America, in general, is losing their attitude.

I personally am on my fifth contract with Murphy Brown, and every contract has been notably better for the grower. If it weren't for my contract, I honestly wouldn't know what I would have to be doing to survive. These people are my friends, not my employer. I farm 350 acres, have three Murphy barns, and an off-the-farm job. My contract is essential to my family's well-being. Please consider these two minutes of your time a lifetime for my family and five daughters. Thank you.

MR. SHEETS: Good afternoon. I'm Leon Sheets, pork producer from Ionia, Iowa, up in the northeast corner. I've got a 1,200 sow farrow-to-finish operation. I also have a small cow-calf and run some corn soybean rotation.

I started out raising feeder pigs. And for those of you who have been having issues with selling to a packer or on the beef side, you really ought to try to sell feeder pigs through your neighbors. It was just as difficult and the same issues came up. And so in the mid-'90s, I and my wife made the decision that we would move into finishing our own pigs because it seemed to be that that was not -- selling feeder pigs had too many ups and downs. The lender agreed with it.

To minimize our risk, we needed to add on more finishing space, and so we chose to visit with some of our neighbors about doing some of the finishing on their interesting facilities that they had exited. So we started some relationships, signed some contracts with some neighbors. To do part of this, we sat back with the lender, took a look at what -- the extra dollars it was going to make. And from a business model, we went out and started visiting with harvest partners, what they could offer us.

We signed up one, going through '97, '98. For pork producers -- remember those years, we've heard about it. It was a God send. It got me through ten years and we upped -- moved, growed (sic), and progressed. And I'm glad to say now that because some of those, ten years ago I would have said, My son will not return. Three years ago, he returned. And right now, this new technology is that he taught me how to text a little while ago. And I'm thinking he's wishing he wouldn't have right now.

But what is important is that I had a relationship with my harvest partner and my grower producers. But one of the things that came out -- it was not about the dollars I received on the basis. It was not about the premium. But what got important in the pig operation is I have 500 pigs that need to move out of the farrowing barns every week to make room for new sows. I need to move 500 pigs out of the finisher every week to room for those pigs coming out of the nursery. I need a time factor to get that done. And then in the process of negotiation, it's important to me that we have a relationship, when I need to move animals that it can be done.

As I read -- and I need clarification on this proposed rule is -- I think that will take away some of those abilities, because it is important to me. So please, have your folks review and make clear what they've done.

MR. KAMMERER(phonetic): Good afternoon. My name is Marvin Kammerer. I'm from Black Hills, South Dakota. I'm from the family that walked into the wagons in 1882. Good bless America that we can still have people who come here and, I hope, listen to the survival of American agriculture, especially the American cow and calf producer.

Grandfathers -- that's what I am, is a grandfather. I've got five kids still on ranches. Others -- you know, my grandkids are either in school or pulling their own weight. I should be in Fort Pierre, South Dakota, today at the State 4H rodeo finals. I have three children there, grandchildren. That's where I belong. Here I am, 73-plus years old, and here I am trying to fight for the rights of those who are coming after me and those not yet born.

God bless the city people and the labor people who came here to share their concerns. Grass roots people, people who produce new wealth, are becoming fewer and fewer. Every cow that's bred this spring -- sheep, whatever -- next spring comes something that's never been here before. That's new wealth. And we don't want to turn it over to the packers. Enforce the Packer and Stockyards Act. Don't let these boys who come to Washington with pockets of money set there and bribe our congressman year after year after year.

You people may have to step outside the box and become men and take our side. Get out of the independent -- this nation is not going to survive. This republic is dead if we don't start changing things quickly. Thank you.

MR. STIKA: Good afternoon, I'm John Stika, president of Certified Angus Beef. And I just want to share that the Certified Angus Beef brand is a subsidiary of the American Angus Association, which has a long tradition helping producers add value to their cattle. Producer members of the association planned ahead for the value-based future we have today by investing in genetic evaluation and establishing this very brand more than 30 years ago. And since that time, value-based opportunities have only expanded for producers and pull through consumer demands function successfully.

We urge that great care be given to ensure that no one who has worked to add value of their herd in an effort to meet consumer demands find fewer marketing opportunities to tomorrow, even if that development is unintended. Now, we fully understand the proposed GIPSA rules don't spell out a required end to value-added and value-based marketing. However, it is possible that efforts to comply with new provisions could logically result in fewer value-separation opportunities for high-quality cattle compared to average commodity cattle that risk a decline in consumer demand for beef.

Unintended consequences of rule changes could actually harm the interest of fairness in the beef market. For example, if a proliferation of newly required paperwork makes it less profitable for packers to offer alternative marketing arrangements, then producers will not be paid premiums based on true value. The idea of improving fairness in the marketing of livestock is something we all should support. How it should be achieved is a matter of opinion, but it does little good to enhance fairness on one hand while potentially restricting it on the other.

We all want charity in the rules, if necessary. But our consumer-driven industry can't afford the kind that throws the baby out with the bathwater, so to speak. We can all have the kind of clarity that negates its intent by opening the doors to a long series of lawsuits to further clarify. Therefore, we urge caution to -- in attempting to clarify a policy by using only selected opinions without greater consensus on both the direct effects and potential side effects resulting from efforts to comply with change. Thank you very much.

MR. BRUSS (phonetic): Good afternoon. My name is Craig Bruss. I come from North Central Washington. I drove 1,500 miles to get here today to thank you for the opportunity that the livestock industry has. We're grateful that somebody finally has woken up to the fact that something has to be done or we're losing all of our producers. My operation is a 750-cow deal. I've got two boys involved. We feed cattle. We market pure-bred Angus bulls and we market feeder cattle.

My concern is packer concentration. All you have to do -- it isn't the number of cattle that are -- that the packers are -- but it's how they strategically place them in the market. Whenever this thing starts to heat up, it looks like we -- all you have to do is look at last week. I mean, you don't got to dig too deep. Look at last week. Cattle hit a buck one, buck one and a quarter.

And all of sudden, the next week, they go back and look at the kill, look at cattle that came forward this week. A big portion is -- a portion of those cattle are select, select-plus cattle. Why? Because they strategically took those cattle out of their supply, brought them into the market. And what happened this week? The market dips down to the 98, 99, depending on where you're at with this. But the point is they strategically place those cattle in market that tips the market over. We can't continue to stay in the business. Every time something happens like that, they step up, tip the market over with their strategic supply that they have. It isn't the number they have. We watched it happen with the Canadian cattle.

Whenever that thing would heat up in Northcentral Washington -- and I operate a livestock market -- down come the cattle. It tips the market over. All of sudden, I'm sitting a sale yard full of 850-pound steers and there's not -- the market's $2 to $3 less than it was the day I consigned the cattle. I can't continue guys. We've got to do something different. Thank you.

MR. MURPHY: My name is Andrew Murphy. I'm a cattle producer from Central Kansas.

The reason that I am here and the reason that I have a job in this industry is because I'm a third-generation cattleman. And these marketing opportunities that we've had in the past are primarily the reason that my father had room to get me back into the operation. These are exactly the types of marketing arrangements that this rule has potential to hinder. It has the opportunity to damage and potentially limit our ability to grow, limit our ability to be innovative. If I didn't have a father who was involved in the operation, that was innovative in this thinking process, again, I wouldn't be here.

A couple of observations. And one of them is a little bit tongue in cheek and the other one is fairly serious. You know, what I've listened today -- and I had a prepared statement, and I kind of tend to wing it every once in awhile. So the prepared statement is kind of out the window for just a second. I listened to the panels this morning. I listened to everybody's comments here this afternoon. And ultimately, I think there's a common -- there's a goal here.

I listened to the panels this morning talk about how -- that if they had less restrictions on their ability to have a packing industry in Wyoming, had less restrictions on the HASA programs, less restrictions or more opportunity in the equip programs, and more opportunity in the grants and the funding to build infrastructure for new opportunities and new innovations in their business. And at the same time, in opposition to the GIPSA rule, we come in here and we say, We want less restrictions on opportunities for us to be innovative as producers. We're saying exactly the same thing. We're pointing at different segments, but we're saying exactly the same thing.

Secondly, having been in an operation that's in these marketing arrangements -- and I'm going to insult the packers a little bit. We work a lot with the packers. And you guys give them a hell of a lot more credit for being organized than they really are. They can't design that well to be able to fill in the cattle market for a 98 versus -- they don't have any more clue than we do. So with that, I'm going to be short of my two-minute time. Thank you.

MR. KNIGHT (phonetic): I'm Mark Knight from Highland, Kansas. I, too, am in operating agreements. Those agreements were established back in 1989. In 1989 we found that in Central Kansas, that we would probably not be able to get the markets that they would put the packers as close to the feedyards as they were out west. That's the reason we went and did what we did. And we tried to -- like a lot of cow-calf guys in here, I've heard today, they're trying to pool their resources in order to get a better dollar for their customers. That's one thing.

The second thing I want to talk about is earlier today we talked about how are we going to get the farm, the feedyards, all of these businesses, to continue on in the future when we're all gone? It's been pointed out, and I just want to reiterate, that the government can do a lot of things and it can take away things. One thing that we could do is get rid of the restrictions that the EPA, ADH&E, all the Kansas rules that we have to follow -- everything that we make, whatever profits there are, there seems to be a new regulation coming to where we need to change something. Now we've got dust issues we're talking about.

But if you wanted to do that, aside from getting rid of the estate taxes, those are a lot of things that you guys in government can do, is to have less regulation -- because our ultimate goal is to feed the world with the best, nutritious beef, tasty, in the whole world. That's our goal. We want to get to the plate. We bash packers all day long. We've got to have those packers. They're in line -- from the very beginning, we have the rancher, through us, to the packer to the end user, bashing them. And I understand we need better price discovery. But also we need them in our industry. Thank you.

MR. BONNWELL (phonetic): Hi. I'm Brett Bonnwell from Columbus, Nebraska, pork producer. I've been in agriculture for 30 years. And one thing hasn't changed since Grandpa and Dad and I sat around the table, it's cursing those dammed packers. Some things never change.

I'm very concerned with the GIPSA, the rulings, and how that will affect our business. Our industry -- at least the swine industry -- is the most competitive in the world, not only in how we produce product and our cost to produce it, but also in the quality. That's very much, you know, shown by our exports and how they continue to grow. I know the government is trying to help. The government has always tried to help. But a lot of times, there's a lot of things they're not good at. One is getting into our business.

We have to compete in this world market, and we need help not in help managing our business, but opening free markets, which are there, which have been sitting on the books for several years, and do -- the political correctness with associations have not been opened. Please, if you want to help pork producers, get our markets opened up. We're the best in the world. All we need is a fair playing field.

We think GIPSA will penalize the people who are very good and help the people who are average. And that's no way you're going to compete today in the world market. We're better. We don't want to be average. Rural America needs jobs. And without the pork industry, we'll lose those jobs. In Nebraska, it's critical that we have those. Our communities are shrinking. We're losing our schools. We don't need any more regulation. In Nebraska, we have a motto: We'll handle our business ourselves; we do not need your help. Thank you.

MR. BARNES (phonetic): I'm Pete Barnes. We're cow-calf producers in steak -- in Texas, running stocker operations in Texas, Oklahoma, Kansas and Colorado. We feed cattle in Oklahoma, Texas, Nebraska, Iowa, and South Dakota. And I'm really against these rules that you-all are trying to change. I mean, I'm really against changing any of these rules.

To give you a good example, we have a real small farm of feeders in South Dakota. This means they're specially marked. I would not consider finishing cattle without a contract from the packer before I place them on feed. We got bid by two different packers. There's $500 difference between the two bids. It's real simple. I sold the cattle to the highest bidder. If we could not have contracted these cattle, this young producer would not have been able to buy this farm without a guarantee from us about filling it.

We also produce a large number of cattle that are qualified for the USDA non-hormone treated program through the AMS. These are specially marked as well. I do not feed these cattle without a contract before placing them on feed. The premium are $160 a head. However, we have another $100 of additional costs by doing this. And if there is one too many out there in the market, then all of a sudden they become commodity cattle. Why should a person that's not willing to do the extra work to get cattle qualified be able to sue a packer or possibly myself to have them justify these premiums?

These extra efforts hurt the entire cattle industry since the beef from these cattle are all exported to the European union. I'm afraid this is just the start. Washington apparently wants to regulate us all out of business. On Monday, we sold on the superior livestock videos 650-pound calves for $1.23. On the same sale, I bought 600-pound calf for $1.10. I don't want the owner of these cattle to be able to sue me.

Real quickly, let me make this final point. Here's a short history lesson. The Packers and Stockers Administration started in the 1920s to control the big-five packers. To put this in retrospect, in 1917, Swift & Company was the second-largest corporation in the

United States; not an agricultural company, but the second-largest company in the United States. Now the big -- and Armor (sic) was number five. Now the big three is small parts of larger corporations. If being a packer was so profitable, why haven't Budget, Murdoch, or Storris built a packing house?

MR. OUTLAW: My name is Ben Outlaw. I'm a third-generation pork producer and vice president of the North Carolina Pork Council. There are some 2,200 hog farms in North Carolina, and the North Carolina Pork Council represents the farm families and production companies that own and operate these farms. The swine industry has been and continues to be a very important part of the North Carolina economy.

The North Carolina swine industry accounts for 22.5 percent of all farm cash receipts and is the second-leading source of farm -- gross farm income. Combined effects of the swine production, pork packing, and processing in North Carolina are over $7 billion in sales with an additional $2 billion in value-added income. Also, there's 46,000 full-time jobs generated by the pork industry.

Just as production practices have changed since my grandfather produced hogs, the industry in North Carolina has changed. Nearly all the hogs in North

Carolina are produced on contract-integrated companies or with packer contracts. The changes in the GIPSA rules would be disastrous on the pork industry. By reducing, limiting, or eliminating the contracts, many North Carolina producers will lose large amounts of equity that they have generated over the years and be forced to exit the industry as they would not be able to secure financing and withstand the risk by losing these contracts.

I believe that GIPSA needs to go back to the Farm Bill and look at the five specific things it was asked to do with the regulations. Then it needs to revise these rules accordingly. Hog farmers like me and those I represent need the freedom to operate the way we want. We don't need the federal government interfering in our business decisions. There's been a lot of talk about bringing young people back to the farm and these contracts that control risk and secure financing. Without them, it's going to be much more difficult bringing young people back to the farm. Thank you.

MR. ROGERS (phonetic): I'm Wall Rogers, operator of R&R Cattle Company, a family-owned cattle operator. I have two daughters and a brother, a cow-calf stocker and feeder from Southeast Kansas.

At present, I am a KCA director, member of KCA, and R-CALF for about ten years. We have been involved in the cattle feeding business for approximately 35 years. From a fat-cattle market perspective, the last two weeks have demonstrated how captive supply affects the market. Kansas fed cattle grade volume has been about 82,000 head, including 41,000 head of captive designated supply cattle. When this number dropped below 50 percent or below, the cash market in this instance responded $4 to $6 advance. When the packer has 60 to 70 percent of the designated supply of cattle, they become very independent in bidding on cash cattle.

We have seen a diminishing profitability over the years. We simply need competition in the marketplace in order to obtain real value. If these contracts are so great, how come there's so many people still going broke. Thank you. God bless America.

MR. KENSEY (phonetic): I won, and I appreciate it. I'm glad to be here around so many smart people.

I'm Brett Kensey. I'm 38 with a cow-calf feedlot operation in South Dakota, along with my dad, my 34-year-old brother, been in the Army. That flag means a lot to me. The country means a lot, family and property ownership. I think that's what drives the whole thing. If you really boil it down, you've got to make a living to stay on the land. I've been here in the presence of

USDA -- I've been in the FSA beginning farmer program. It got me going and I appreciate it. I'm going to try to pay that back.

I guess I didn't come to talk, but my number got called and I felt like I had to. I've got more questions than I do answers. I'm here to learn. And I guess some of the things that bother me is when you hear about exports. Exports are important. They're really important. They're key. But we've got the smallest herd since the '50s and we're growing more meat from that herd. But we import meat to fill our demand. So I don't see how exports can be brought here today as the answer to our problems.

There seems to be a lot of discussion about these incentive programs with the packers. And I'm not smart enough to know whether those things will go away with this or not. But it just seems to me like we can write this so there will be incentives there. I'm not going to bash the packers. Packers are smart. They're good businessmen. Their job is to buy it as cheap as they can; my job is to sell it for as much as I can.

I'm young. I'm ambitious. Give me some competition. I'll figure out a way. Thank you.

MR. COLLINS: My name is Jim Collins, and my family and I are cow-calf producers in East Alabama and

West Georgia.

I come today with two different perspectives. One is a personal perspective and one is a regional perspective. As a partner in a fifth-generation operation, we've been sustainable over 60-plus years. I've spent decades improving not only our genetics but all phases of our production practices from our health, nutrition, handling, as well as developing market relationships. All of these things were done with a goal of maximizing our market access and improving quality.

As a result, we had several value-added options available, including, but not limited to, our producer-led feeder calf marketing association that incorporates the quality assurance, source-of-age verification, the VAC45 or VAC60 program, and it also is involved with our local sale mart. Additionally, we have the option to retain ownership in large or small quantities -- some quantities a few as eight head -- collectively with other producers and marketing in product on a grid using a QSA to enter a source-major market.

In the last two weeks, we marketed our entire steer calf crop with other producers for the 17th year in a producer-led cooperative board setting. These cattle had several value-added claims and were a part of this product we were offering. Ultimately, these cattle sold at a premium for delivery in September and October. A very diversified group of buyers were involved in this sale; some as individuals, some representing value-added marketing chains, and some representing both, which will determine the feeding channels as they enter and are closer to shipment.

From a regional perspective, I speak on behalf of the Southeastern Livestock Network, which represents over 50,000 dues-paid members of our member states. And we have grave concern that the opportunity for producers of all sizes to -- on their own decide to use these options by their own choice to market these cattle might be limited if we move forward with this process.

The other part we need to keep in mind is that cattle are not homogeneous. Unlike commodity crops and grains, there's a wide range in these cattle and we need to recognize that before we move forward, assuming they're all a commodity. Again, thank you. And please, keep these in consideration.

MR. BUTLER: Good afternoon. My name is John Butler. I manage a company called the Beef Marketing Group out of Kansas and Nebraska -- no relation to the Mr. Butler on the panel here. But I wish to express my concern over the rules. And I'll just touch on one issue. I have a number of issues. What we do in our company, we harvest about 500,000 cattle a year. And we totally focus on value added.

We totally focus on value-chain alignment. And we haven't heard that word today, but that's basically aligning everybody in the value chain that has a chance to create value and exercise that through really understanding what the consumer is wanting. And if we're able to do that, we have a chance to reward everybody in the value chain for their contribution to that value.

As I understand the GIPSA rule, this entire concept will be threatened and jeopardized. And as my esteemed colleague, Mr. Herring, mentioned earlier this afternoon, we've been involved in programs where we have to and we look forward to working with the ranching community to identify those attributes, whether they be sources of cattle or whether they be the genetics of the cattle or where the cattle are handled and managed, all the way through the entire system so that we can deliver on a consumer demand and earn that added value that is there.

And if these rules are put in place, what will happen is that we -- that will be entirely taken away and we will have an average price for all the cattle. And if you think I can go into Montana or West Virginia or Kansas and talk a cow-calf guy into participating in a value-chain alignment program where the same price is offered for all animals, it won't work. This whole concept is driven so that we get out of the commodity marketplace and we get into the value-added marketplace and are able to compete in a very competitive protein marketplace.

The other thing I want to bring up is that today it was discussed that these contracts or that these sort of formulas are not negotiated. I promise you they are all negotiated. Now, they may not be negotiated every time but they're negotiated from the beginning to establish the business proposition. So I stand before you today with concern over just virtually every piece of the GIPSA rule and I thank you for your time.

MR. FERRELL: I think if we could start with the next page of ticket numbers. And if you could line up in front of the microphones if you see your number up on the screen. Thank you.

MR. ROBBINS: I'm Lee Robbins. I'm a fourth-generation beef producer from Gove City, Kansas. I don't -- I didn't start out and build from the family's operation. My wife and I built our own operation, and it's been tough. We feed cattle. We do whatever we think will be best to market our cattle at the time that we have to market. We use the future as a market, which hasn't been mentioned much. And you can still contract your cattle ahead on the future market, as they do enforce GIPSA, which I hope they do. I would think that even a caveman could see that we have some serious problems in this business.

If you want to -- if you don't want to change, then we can go down the same trail as the chicken business and they'll be gone. We can go down the same bit -- the same trail as the hog business. When I was kid, we had hogs. My father saw that it was going to turn into a big corporate fiasco with small profits. We got out. We got the biggest one in the county. If they don't enforce it, as far as I'm concerned, the beef business is a "has been" and the future will be gone.

We don't have to stop their value-added stuff. They can still do that. I don't see anywhere where it says they can't do value added based off of a live discovered price. We've got to stop packer ownership. If we don't, then, Adios. Thanks.

MR. MICHAELSON: Hello. My name is Travis Michaelson. I'm from Mud Butte, South Dakota. I'm a fourth-generation rancher there. I ranch with my father, my father-in-law and my grandfather. We all work together. We raise cattle and buffalo.

I appreciate the chance to be involved in something like this and have access to officials in high places like this and be able to air our concerns. One thing I, as an insight into comparing a similar but different market -- and believe me. I got made fun of a lot for having buffalo a few years ago. The market was pretty tough, you know. And there was -- it was a completely free market. There was nobody supporting that market. And there was no packer consolidation. There still isn't. There's a large number of competitive packers that bid on buffalo. Okay?

I want to point out the price disparity today between buffalo and beef, which I think a large number of cattle producers aren't aware of. You know, right now, fat buffalo are bringing $2.80 on the rate of hot random weights. And cattle -- fat cattle are bringing in the $1.50 to $1.60 range, while the retail price is largely similar. Okay? I mean, yeah, there's a lot of differences in those two markets. And buffalo is tiny, tiny, tiny -- inconsequential -- in comparison to the beef market. But they're similar; the red meat protein sources.

And in many ways, they're similar in how you handle them. They're similar in their cost structure. There should be an explanation for why one similar meat source of equal size is worth nearly twice as much as another meat source of similar size in the wholesale market. I think that's something that all these cattle guys should think about. You know, how come is it that the buffalo is worth so much more? One reason, I think, is the buffalo -- the packers that deal in Buffalo are completely unrelated to the packers that deal in the beef cattle.

They're small, they're spread out all over the country, and they're absolutely competitive. I sold a fat load of heifers yesterday -- last week. I had seven different buyers calling me, wanting to make a deal on those fat heifers, you know. And believe me, I didn't get discounted on a single one unless they were light on weight. You know, class-wise, as long as I fed them the way I sold them the way I did, there was no difference in price, as long -- unless they were too light for their deal, you know, unless they didn't meet the weight limit. I just thought that was worth sharing today when we're talk about competition. Thank you.

MR. LECHT (phonetic): I'm Dennis Lecht. I'm an agent and director for the Southern Cattle (sic) Stockgrowers. And I inherited a lot from my father. He was -- I was the fifth of a family of five, and he kicked me in the butt and told me, You'd better get to work because there wasn't anything. That's a pretty good inheritance, whether you like to admit it or not.

Now, what I'd like to relate to you -- I've had trouble with the packers. I feed cattle. I background cattle. I'm basically a feeder calf producer. But I've done all aspects of it. I've had trouble selling to the packers, and that's one reason that I don't feed cattle anymore for the packers. But the story I want to relate to you, we've heard a lot about premiums today. Different people talked about premiums.

I went to a wholesaler and there was a representative from Cactus Feeders there. And he gave us quite a deal on premiums, the quality goals we were looking at. And I got up and I asked him -- when he was done, I said, You know, we are looking as some real quality goals here today. I've been feeding cattle for four or five years. I've got all the data on my cattle. I could show where their yield is good, the grade is good. I can show you where the feed efficiency of the cattle are good. I want to know: If I buy these goals, how can I get a premium from your feedlot?

And he talked around the question and he talked around the question. And when he got done, I said, You still haven't answered the question. How do I get a $0.05-$0.10 premium for my calves? Well, he talked around the question some more, but he didn't answer. And finally, the third time I asked him, I said, Now, listen, I've been hearing you talk a lot, but still haven't told me how to get that $0.05-$0.10 premium for my feeder calves. And he said, Cactus Feeders does not give a premium; we buy on averages.

And so when I hear a lot of this stuff about premiums, I get really skeptical. Because I believe the big feeders feed on averages. I just want to share that story. Thank you.

MR. TENNIGER (phonetic): I'm Bill Tenniger. I'm a pork producer from Lamars, Iowa. I've bee doing this since 1969. I've been in this industry for a fair amount of time. I have seen the pork industry change dramatically from the time I started until today. I'm still in the industry today. I'm a smaller independent producer. I'm in the industry today because I have learned to adapt. As my industry changed, I adapted and I changed with it.

This workshop is supposed to be all about competition. Competition, to me, is a good thing. Small amounts of competition keep us -- keep producers on their toes. Through the years, it's competition with other producers in the industry that have made me improve my genetics, improve the quality of my product. I don't look at my packer as competition. I look at it as a harvest partner. I have a good relationship with my packer. I worry more about government regulations and how they're going to affect my operation. I don't have a back room full of attorneys to turn to.

This is potentially the biggest thing that could probably put me out of business. The fact that I would have to document any contracts that I have with my contract growers that raise my pigs and the fact that not -- possibly not being able to enter into a contract with my packer to sell my production may affect my financing -- I'm worried about the fact that there's a possibility that we could lose the incentive to raise better pork, better product and how that will affect our place in world trade.

You know, the fact that 20 percent of pork raised in the United States today is exported -- I like to tell people, When you drive down the road and you see the semi loads of hogs headed to the packing house, one out of five of those are going to foreign exports. That, to me, makes a big difference. And that is a reason why I think in the Midwest, we are larger exporters than a lot of people think. Thank you.

MR. UMPHIST (phonetic): Arty Umphist, irrigated crop farmer from the Longmont area, which is 25 miles north of Denver here.

Let's face it. What this really is about is profitability. And when it comes to profitability, you're also talking about profitability equaling sustainability. And I think vertical integration is something that really needs to be focused upon. And we heard earlier today from Robbie LeValley about a great way to break the integration and make some profitability by forming a co-op. And I think there's great merits to that.

As a person who grows sugar beets and has been involved in witnessing the sugar industry in this country -- the sugar beet industry -- transform itself from mostly a privately owned industry into a farmer-owned cooperative system, it has worked very well and there's great promise there for livestock producers as well to look forward to trying to form more co-ops and take advantage of that vertical integration and get those profits back into their pockets from selling to the end user.

Let's face it. There's also another part of the equation that needs to be factored, and that's reasonable feed prices. And one of the things that's going to impact that, in my opinion, is the ability to continue to -- for crop producers like myself to continue to grow genetically enhanced crops to allow us to use safer and cheaper pesticides and result in higher-quality beef for our livestock producers. We need to expedite the process of getting round-up ready alfalfa back on the market and allow us to plant round-up ready sugar beets that also -- the sugar beet crop can also result in some good protein feed supplements for our livestock producers.

And so I think that sustainability is something we really need to look at and the ability to attract younger people to become ag producers. We need to make sure in Colorado that the water continues to flow to our farms. Because that's going to provide a great future for all of us in Agriculture. And, therefore, we need to go ahead and build projects like the Northern Integrated Supply Project.

And I would just like to say we need to dam Le Poudre and store it in Glade Reservoir. This is one of the great new water products that is currently being studied here near Fort Collins, and it needs to go ahead and get government approval. And we need to make sure that the government doesn't overregulate production agriculture that will lead to the importation of all of our food needs from foreign countries if we don't back off on cattle trade and try to back off on -- and increase our EPA regulations.

So in closing, I'd just like to state one of the things I commonly hear at these agriculture meetings, and that is: In the next 50 years, we need to produce as much food in the world as has been produced in the history of the world. Thank you.

MR. LEGAN (phonetic): Good afternoon. My name is Mark Legan. I'm a first-generation independent farmer from Coatesville, Indiana. And 21 years ago when I -- my wife and I started this deal, I was a beginning young farmer. I guess when we started, we were -- ran 120 sows 50-50 with another family and formed 200 acres. One thing that we surely appreciate have been the opportunities we've had the last 21 years. Today we run a 2,400-sow operation and farm 1,000 acres. But we've always looked for opportunities to survive, whether those be to partner with other growers in the area.

On the crops or the livestock area, we've used production contracts with some of the neighbors to finish out pigs for us in the past, and we've also used marketing contracts as well. And when I think of our crop and livestock farms or operations today, we have a lot more opportunities on the livestock side of our farm to manage risk than we do with the livestock. So I'm looking for any way to help manage risk more with the livestock. And certainly, these contracts allowed us to do it.

The thing that's been pointed out earlier but I want to reiterate, pork production contracts, by and large, are much different than poultry contracts. I don't think you can paint us all with the same brush. We need competition in the marketplace. We need transparency; the importance of mandatory price reporting. Am I concerned about the thinning traded-spot market? Yes. Is it working? I believe it is for now. I also believe that we as producers can innovate well enough so that when we feel it's not working, we can make the changes. And part of the new mandatory price reporting deals with wholesale cuts of pork. And I think that would be one thing to get us there.

In conclusion, then, I would encourage GIPSA -- and I'm sorry Mr. Butler had to step out -- but I would encourage GIPSA to pull the rule back and deal with the five issues that the 2008 Farm Bill required. Thank you.

MR. BEASLEY (phonetic): I'm Jeff Beasley. I'm a fourth-generation beef producer from Illinois. And we cover all segments: cow-calf, register and commercial, stocker cattle, backgrounding and finishing. We're one of the little guys too. We may run a few thousand head through our operation a year, but I consider that the little guy.

One thing is sure. These rules that are being proposed are vague and ambiguous, and that's cause for concern for a lot of people. I think that's why we're a little bit tentative about this. One thing I do know is if I want to enter into an agreement with a contract or some sort of marketing arrangement, I should be able to do so on my own volition without any government's intervention or oversight.

We talked about pricing. We have three packers with us in our yard all the time bidding on cattle. We feel like we're getting competitive pricing, and we're very happy with that. We also talked some -- or heard about price discrimination. If I could do a better job of negotiating a selling price for my cattle, if I do a better job marketing -- promoting my cattle for sale or if I produce a product -- a calf that the packer wants more than someone else's, then I've done a good job. If my neighbor does that over me, he's done a good job. I need to do a better job to improve my bottom line.

We've tried to work with some area producers to market our cattle together, feed our cattle together; whatever the case may be. It is hard to get people to change. If they don't want to, that's understandable. But what I hear a lot of today is, I don't -- some people don't want the change, however they want to tear down the other guy who may be trying to be innovative and do a better job in marketing his cattle.

Another thing I want to say quickly, is the packer is a business. Like any other business, he has to make money for his shareholders. We need to be thankful for the packers, in a sense, because we have the raw products that we need them to buy. And as part of the group that once tried to buy a small regional packing house in a co-op with a bunch of other producers, it is not easy to make this work because of overhead, government regulations, et cetera. It's just not that easy.

So my final comment is I would ask that GIPSA pull back the proposed rule changes and just enforce PSA as it is. Thank you.

MR. SCHULTZ (phonetic): Thank you. My name is Mike Schultz from Northwest Kansas, cow-calf producer. We're a heifer development deal. I've been involved in agriculture most of my life.

A couple of things. I want to offer a solution, I guess. You know, you listen to everybody. Yeah, I've got one bidder, two bidders, three bidders, four bidders. Maybe they do; maybe they don't. I don't think so. But I will tell you the solution, and it's very easy. They can keep their captive cattle for the people who want to do their little niche program and all that. And all we have to do is ban packer ownership, and then we create a more competitive environment for everybody.

Because without them trading the cattle and doing it behind closed doors -- they don't own any of them and get the best from our feedyards. Now look at what we've got. And everybody will benefit and will change this thing. You have to ban packer ownership. Thank you.

MR. DICKLETT (phonetic): Jim Dicklett, Nebraska, drug-free cattle feeder, rancher, and company rep. There's a lot of issues that are being addressed today. I want to get into the GIPSA program. I think there's great minds in line. I feel -- I trust, Dudley, you, if you pass these laws, you'll initiate those as best you can.

What concerns me is some of the laws that we have in our grading system now because of the inspectors we have in our packing plants are not inspecting the cattle grading them properly. I've had one yard of cattle from two different plants graded differently and it's cost me $50. In that yard, a difference in the greater -- the better-quality cattle is bringing in less money than the lower-quality cattle. It's just because of the graders and their system.

Secretary Milsap (sic) this morning asked what they could do -- what the government could do to bring younger people back to the farm and ranches. I say change our tax system. If generations of -- an older generation wants to sell to an individual -- a young individual, he should not pay any capital gains if he sells that land below market value -- below the assessed value. And if he finances that ranch or farm, that he not pay any taxes on that financing or the interest that he charges will keep the dollars back on the farm or back in the real communities.

Another thing I'd like to see is our commodity markets. How many bankers who loan money to the individual to get into the farming and ranchers leave only 10 percent down? I can get into the commodity markets -- corn, cattle, whatever -- if I just put 10 percent down and go to the commodity board and buy cattle. I think this is wrong. It creates a very lucrative -- or an unlucrative situation for the cattle market, and it does not calm the markets any. It creates a great fluctuation in the market.

And I think the funds that are out there that are getting into our markets on less money are causing this problem. If they were charged more to get into that market, I think we'd have a better market and the market would change, be less active. Thank you.

MR. LEIGHTENBERG (phonetic): My name is Fred Leightenberg from Corsica, South Dakota. In 1996, our family farm was given the opportunity to expand our hog finishing operation. We signed a production contract with Murphy Family Farms to raise pigs in a 3,000-head feeder pig finishing site. In 2006, we again stepped forward and purchased another 3,300-head finishing site and signed new contracts for pork production with Murphy Brown.

We are looking forward to another new set of contracts to sign as we are upgrading both our facilities to operate them as wheat-to-finish. These contracts have had a very positive impact on our operation. In 2005, we were honored with the South Dakota Master Pork Producer award, and in 2008 the South Dakota Pork Environment Stewardship Award.

These new regulations might make sense if the current system doesn't work. But the majority of producers are happy with the way our contracts operate, protecting us from the wild swings in the livestock and grain markets. These new regulations also give the packer no incentive to continue to work with producers at all. Instead, they can go to using all company-owned livestock, eliminate competition from the existing producers, and increase the vertical integration.

I ask USDA to step back, let the producers decide what is best for their operation, let the packers process and market the products, and let the consumers purchase the finished foods they wish to consume. After all, isn't that what free enterprise is all about in our great United States of America? Thank you.

MR. PHIPPS (phonetic): I'm Bobby Phipps from Arnold, Missouri. I'm with the Ozarks Property Rights Congress. And I -- it's been fighting the -- against the check-off dollar and the premise ID and emblem ID. One of the reasons is because it's government controlled. Look where our dollar is going; to the government. Who is trying to get our premises? The Government. Now I'll tell you the reasons why and who controls it.

Now then, the synonym for premises means convince a property from one person to another or corporation. Who in the hell runs the USDA in Washington, D.C.? Corporations or any farmers? All right. Now then, I went to two meetings where we've had -- the state of Missouri said, Hey, we need to have it voluntary. But it wasn't really voluntary.

And I proved it to one man. Because I asked him -- I said, How many acres have you got? He said, Oh, about 400 acres. I said, Well, would you put your property up for collateral if someone in state of Missouri here loses their property if they sign up for their premises or would not sign their property up for premises? You lose your property and he does too. No, they can't. I said, Then it's not voluntarily, then, is it?

The same thing they -- all right. He said, We'll just -- we've got legislature to pass in the state Missouri where it's only going to be -- it's going to be mandatory only. Now then, the surrounding states are trying to get passed what's called corporate agreement. And I know Arkansas has been doing it, two -- what I call corporate agreement -- two premise IDs. And the premise -- who is pushing the premises? These corporate multi-corporations in Arkansas; the chicken farmers, and the hog farmers, and the cattle farmers.

Now then, who is the premises? Does the premises -- we tried to get the word "premises" changed in Washington, D.C., and Jefferson City. The premises -- nobody owns that premises. That's one way we try to get the property changed from premise ID to property ID. We cannot. We couldn't. Still, yet, our government says we're going to have beef check-off that's been extorted and our premise ID is going to be extorted. And this is the way the packers -- our corporate -- model corporation will take over the farms. I'm sorry. But I've had enough of government control. Thank you.

MR. FERRELL: I just have one quick comment. I just want to let everyone know that the buses will stop running at seven o'clock. So I just want to make sure you're aware of that.

I think we'll go ahead and allow the folks who are at the microphone right now to finish up. We'll put up another page of numbers. But we will take a ten-minute break first so that way, our court reporter can let her fingers heal for a moment.

And with that, we will start over here.

MR. BEEDEN (phonetic) Hi. My name is Jim Beeden. I'm from Hamilton, Montana. A lot of you folks enjoy something that we don't. We market pigs to four different locations. We have to ship between 6 and 1,200 miles.

I'm very concerned about the GIPSA program because it could affect our marketing association greatly. I represent 23 producers in Montana. And with the GIPSA, the way it's written, we market pigs from 8 pounds to sows 600 pounds. With GIPSA, we would not be able to represent our people and ship the pigs to the places that they need to be shipped, the way it is worded today.

It would be devastating to our -- the state of Montana. We're a small business with $24 million to $30 million a year. But if you look at the size of our state and the income that that brings in, it is huge to us. It is very, very important that you take this very, very seriously and you look at it.

And as far as -- you know, I've heard a lot of things today and some things that -- you know, a lot of in-fighting and stuff like that, like the packers are the bad guys. Without the packers that we have established contracts with, Montana could not produce pigs. With the way that our contracts are, we get premiums for raising them. That helps us ship them the distance that are there. So please look at this very closely. This is going to affect a lot of people. Montana hog marketing does not support GIPSA as it is written now because it would be devastating to our industry. Thank you.

MR. BURGIS (phonetic): My name is Brock Burgis. My wife and I operate a backgrounding reconditioning operation in Central Oklahoma. My wife and I kind of started out in a unique way. We did not marry or inherit any kind of operation, which started out small. We were kind of the middle guy going between -- leasing ranches and customer cattle. And as we grew and our program grew, we eventually were able to purchase the real estate and we still stayed in the customer contract business.

And as our industries fall, because we have evolved as a business ourselves, that became a nonprofitable business simply because the operating inputs increased, our customer base was shrinking. It is no longer a viable operation. And when all that took place, one day, my wife and I woke up and we said, Well, it looks like we're going to be forced to sell. We'd been in business a little over 17 years. That's a hard thing to swallow.

That's when an opportunity to work with the pre-owned industry program and the lines that they had developed was presented to us. When that opportunity arose, we were kind of leery. But at first, as we got to know the operation, what it was and how it was set up, it has been a life-changing experience for us. It turned our operation around 360 degrees and is profitable. We can actually look and think about growth again at this point.

My hat goes off to the people who designed the alliance they have. These people have been designing one year, two years. They've been working on this project for 13-plus years. Somebody had a vision. Somebody took the time and the effort to make that vision come to reality. When they did that, they started out with the customer. They wanted to find out what the customer wanted. And that's what we all here in this room need to do.

Because if we don't have the customer, we don't have anything for anybody to sell on the market. When they find out what the customer wants, they build a program that everybody profits, all the way from the customer all the way back down to the grower. The packer, the feeder, everybody profits in this operation. And that's the only operation we've ever been involved with.

There's been a lot of talk today about young people not having an opportunity. There's opportunity out there for young people. You've got to be willing to change, you've got to be looking for opportunity, and you've got to be aggressive if you're going to stay afloat in this type of environment and industry. Thank you.

MR. OLDFORD (phonetic): My name is Ed Oldford from Milford Colony, Montana. Several to 232 families make up the Milford Colony, and farming and hogs are our way of life. We recently built a 700-sow growth to market going into Yosemite Meats in California for a niche market. With this GIPSA rule, the contract would not have been read. We tried to get a loan from Farm Credit. Without the contract, we couldn't have built the barn. Please, the GIPSA rule will hurt Montana. Thank you.

MS. SUSHER (phonetic): Good afternoon. And thank you for coming all the way to Colorado. My name is Margaret Susher. I am a rancher out there in the northeast corner of Colorado where the sand hills come out of Nebraska over the Oglala area.

My dad raised six girls on that ranch with a 500-cow operation. I've been trying to take it over and there no way I could raise my risk kids without outside income. The work out there to small family farms and ranchers is the off-farm income we have to get -- often two and three jobs -- and you your kids to work as soon as you can.

Many years ago, I cochaired the committee -- the Small Farm Advisory Committee under Secretary Glickman. Prior to that, there was a Small Farm Commission report. You have within your arsenal the facts and the documentation to do what you need to do. We just have the political will anymore that we lack to enforce laws.

Volume-based buying and selling exist and it existed for decades. I've been a bookbooker in about every kind of business in rural America in my town there is. When a big operator gets to buy his seed or his input cheaper than me because he's buying on such a large scale, and at the same time he gets to sell because he's selling at a large scale, that's something I could never do because I won't be as big as he is. Whether it's corn, whether it's cattle, whether it's pork; whatever.

I started my activism fighting pork and hog farms that located near my ranch. The environmental costs they displaced on my rural community because environmental laws -- they were often zipped up or they're not in force -- displaces on the taxpayer and the neighbor. If we would start enforcing laws that are on the books and we would find people with the backbone to enforce those laws, use the tools that people like me bring forth.

I drove to Grand Island, Nebraska, 4 1/2 hours for five minutes to counteract the beef packer who said, I've got to have that feedlot in Greeley, Colorado, to supply my chain; I don't want to ship the cows three hours a way; that's an extra cost. He has a big feedlot in Yuma County. Had I not testified, they wouldn't have known that. Why is the price difference in his ownership of his cattle in Yuma County any different than if he went and bought it from the small independent feedlots? So they're now going out of business or they've got to have contracts in place to ship their cattle.

I used to feed one or two pens a year with my dad. We would get three, four, five bids every little bit constantly. Now we get one bid one day a week for 15 minutes. Take it or leave it. That is market control, people. And you've heard it and you've heard it and you've heard it. We don't want special treatment. We want to operate in the cash market which sets the basis for those other people. It doesn't take rocket science to figure it out.

I've testified on the Hill. I've testified in the state. I've traveled all over, often at my own expense. And I finally got a job to be an environmental consultant. I will shoot from within because I'm not going to set at the people -- at the same table as those people who are displacing their costs on me when I am the best root of my land. And those controlled, confined operations are displacing their costs on me. Thank you for your time.

MR. KLOUCEK: Good evening. Frank Kloucek, senator from South Dakota. My best to you. I bring you a greeting. I'm asking you to be like Teddy Roosevelt who speaks often and carries a big stick. And you have the power to do that by adopting these GIPSA rules, strengthening the mandatory price reporting and banning packer ownership. It needs to happen. The people here today overwhelmingly supported the GIPSA rules.

The sad thing is -- there's a gentleman named Jerry Litton, and he's a congressman from Missouri. He said, Happy are those who dream dreams and pay the price for making them come true. And many of these people here today have paid that price, either through discriminatory pricing, contract growers, or just on the open market.

Our families experienced it. We were told, Sell your sows for $0.07 a pound or we will not have a bid on them tomorrow; we will take them off your hands. That's exactly what they did. Chicken growers --

contracts were offered to my family. Three -- three years later, the people that took those contracts were broke.

And then the gentleman that spoke earlier with the Murphy contract, I could write a book about that. There are people that have gotten it, but it's a survival mode with the Murphy contracts. And Fred did a tremendous job, but so many of my friends have gone break under them same contracts. Iowa, the attorney general had a whole page devoted to the contracts and what to watch out for such as the ledger contracts. So they've weeded us out, and they get the most efficient, and they get them to work for peanuts. And we're losing rural America as a result.

I ask you to be bold. Adopt the GIPSA rules. There's an exception when there's some people complaining about it. Allow them to own the packing plant as a cooperative -- not as a corporate entity, but as a cooperative, and then sell the marketing through the cooperative thing. Use that as an exception, as a possible idea for your allowing some of these rules to be molded to make them work.

This is the first time since Teddy Roosevelt was in that we have a chance to do something that goes beyond what we've seen here today. And you gentlemen and ladies have that opportunity. And I hope that we can make this not just for our farmers, but for our consumers, for the packers, and for the people that live in our great country. Thank you very much.

MR. NOLAN: My name is Jack Nolan. I ranch with my wife and my two sons and their wives in Southeast Montana on land that was homesteaded by my great-grandparents.

I want to thank you, Mr. Butler, for trying to address a problem that we all are aware of. I can't imagine the amount of people that are here that are apparently satisfied to carry on this -- the decline that we've all acknowledged. I salute you for trying to do something about that. I believe that if people are truly offering a superior product, they should be first in line to demand an open and fair market. Why are they not? I got -- that's a question that I think we have to answer.

Exports -- we've heard a little about exports off and on today. Why are we even talking about it? We live in the greatest consuming market in the world. Exports, it's great. If we get all our people fed and we have leftover food, then we could export. Our calves -- today we could hear some people talking about a premium -- they've got a premium. Maybe they got $1.40 for some calves. Our calves should be bringing in $2 to $3 a pound for keeping up with the rest of society, and we wouldn't be sitting here curling about a $0.10 premium.

One other thing was touched on today. What could we do about retaining our young people in our communities in rural America? And the question was: Could the government do more? I think the government's doing a lot in that regard already. It has to be attractive for the young people to be here. If it's a vibrant industry, they're going to be here and they're going to be happy to be here. Thank you.

MR. FERRELL: I think we'll now take a ten-minute break and then reassemble in ten minutes. Thank you.

(A recess was taken from 6:13 p.m. until 6:27 p.m.)

MR. FERRELL: Well, it looks like it kind of cleared out a little bit. I think what I'll just say here is we can -- if there's a few folks here that still haven't commented, go ahead and come to the mike up front. If you do, I ask that you go to the microphone closest to the court reporter so she can hear better. If not, I would just -- do we just kind of move forward with closing -- with some closing remarks here?

Well, I guess with that, I will just say I want to -- just for the record, I want to thank all the panelists and the people that came here today and provided their comments and their input. I think -- you know, I will say that it's been very beneficial and helpful to us. And I thank Colorado State University for being so helpful to us and you -- allowing us to use this facility and, you know, doing whatever we asked to try to help accommodate and to make this workshop successful.

I'd also to thank our sign language interpreter and our court reporter for sticking with us and doing all the hard work that they've done today. As the secretary stated earlier today, that any of the comments that were made as a part of the Farm Bill GIPSA rule will be made part of the rule comments. So if there's any doubt or question about that, it will be part of the record. And I just would like to state that our last workshop will be held on December 8th, and it will be the last and final workshop that we will work on. And I will turn it over to DOJ if you have any last-minute comments.

MR. TOBEY: I would reiterate what John has said; thank everyone for coming here from long distances and from nearby. You know, please continue to engage in this dialogue with our agencies. And all of the material that we've received today will eventually be put on the Web site, both a video transcript and a printed transcript. And, you know, thank you very much again, and come to Washington in December.

MR. FERRELL: Thank you.

(The proceedings were concluded at 6:29 p.m., on Friday, August 27, 2010.)

REPORTER'S CERTIFICATE

I, Wendy Evangelista, Registered Professional Reporter and Notary Public in and for the State of Colorado, do hereby certify that said proceedings were taken in shorthand by me at the time and place hereinabove set forth and was thereafter reduced to typewritten form under my supervision, as per the foregoing transcript; that the same is a full, true, and correct transcription of my shorthand notes then and there taken.

I further certify that I am not related to, employed by, nor counsel for any of the parties or attorneys herein, nor otherwise interested in the event of the within action.

My commission expires August 12, 2012; and I have hereunto set my hand September 3, 2010.

____
Registered Professional Reporter
and
Notary Public