

Farm And Ranch Freedom Alliance

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September 6, 2006

Senate Subcommittee on Agriculture,
Rural Affairs, and Coastal Resources
Rm 455 Sam Houston Bldg
Austin, TX 78701

Dear Senators:

The Farm and Ranch Freedom Alliance wishes to express our appreciation for your work on the Interim Charge, as well as the invitation to submit comments. We will first respond to your specific questions, and then provide additional comments.

1. What formal position, if any, did your organization take on H.B. 1361 during the 2005 Legislative Session?

The Farm and Ranch Freedom Alliance (FARFA) was founded in April of 2006, and did not exist during the 2005 Legislative Session. None of our directors, officers, or (to the best of our knowledge) members were aware of HB 1361 when it was passed.

2. Did your organization participate in the Animal Health Commission's rulemaking process?

Same answer as to question 1.

3. What formal position did your organization take with regards to the proposed rule?

FARFA opposed adoption of the Texas Animal Health Commission's proposed rule to require mandatory premises registration. A copy of our position statement is attached.

4. What are the pros and cons to your industry of a voluntary state program pending final implementation of a national program?

FARFA does not oppose a voluntary state program. However FARFA has serious concerns that any such program be truly voluntary. Further, the program should be judged on its own merits, rather than assuming that there will be a national program.

To date, the National Animal Identification System (NAIS) program has not been implemented in a truly voluntary manner in this state. Between January and May, the Texas Extension Service provided materials, both on the internet and in hard-copy brochures, stating that premises registration was mandatory as of July 1, 2006. Private companies that were linked to the

TAHC website had the same misinformation on their websites.¹ Moreover, there has been no attempt to ensure that those who are registering their premises are doing so with a full understanding of what they are registering for. At the last TAHC meeting, the staff reported that they had had a large influx of registrations during the last week of June, presumably because many people thought that they had to register by July 1 or pay a fee. FARFA has been contacted by several people who have stated that they signed up for premises registration based on this misinformation. Some people have requested that their information be removed from the NAIS database, but have received no response from the TAHC. Registrations based on false information, lack of informed consent, and an inability to withdraw from the program can hardly be considered truly voluntary.

In considering the pros and cons of a voluntary state program, the Subcommittee appears to be assuming that there will be a national program. While some people have stated that the USDA will implement the NAIS if the states do not, this claim is not well-supported. The USDA lacks statutory authority to adopt an animal identification plan. The USDA has stated that the Animal Health Protection Act is the source of its authority.² But that statute addresses only import and export of animals, interstate travel, quarantine areas, and related programs.³ The statute contains no provisions that mention registration of every livestock owner's farm or a nationwide or intrastate animal identification and tracking program, nor are there any provisions that would provide authority for such a program. Indeed, there were multiple bills introduced in the 108th Congress to amend the statute to provide for an animal identification system and limit disclosures of the information collected under the Freedom of Information Act, but none were adopted.⁴ Three bills have been introduced during the current Congressional session for the same purposes, and they continue to languish in committee.⁵ These repeated failures to adopt legislation to authorize the NAIS indicate that Congress may never actually do so. And should Congress and the USDA ever adopt a NAIS, it will most likely be challenged in the courts due to numerous constitutional flaws.

To date, only Wisconsin and Indiana have adopted mandatory premises registration. Vermont recently halted its premises registration program; the Missouri State Senate unanimously adopted a resolution opposing a mandatory NAIS; and legislators in Indiana are considering reversing its program. There is a growing public outcry against NAIS across the country, making it more and more unlikely that national action will ever be taken. The Legislature should consider the pros and cons of a state version of the NAIS on its own merits, not based on the possibility that there *might* be a national program one day.

Additional comments on HB 1361

While FARFA does not oppose a voluntary program, it is important for the Texas Legislature to consider whether a Texas version of the NAIS is a good use of our limited resources. The Subcommittee's charge is to "study and determine the effectiveness of federal and state

¹ See attached materials.

² Draft Strategic Plan, United States Department of Agriculture, Animal and Plant Health Inspection Service (published Apr. 25, 2005) at p.9.

³ See Animal Health Protection Act, 7 U.S.C. §§ 8301-8320 (Supp. 2005).

⁴ See HR 3787, HR 3822, HR 3961, S 2070 & S 2008, 108th Congress (2004-05).

⁵ See HR 1254, HR 1256 & HR 3170, 109th Congress (2005-06).

government efforts to combat intentional and unintentional harm against livestock and agricultural interests in order to protect public health.” The review of HB 1361 should therefore include an analysis of how effective the program would be in achieving these goals, as well as consideration of the other programs that could be implemented.

The issue of combating intentional and unintentional harm against livestock and agricultural interests is a complex issue, and there are many different steps that our state can take. As discussed in more detail below, instead of expending our resources on the NAIS, FARFA recommends that the Subcommittee consider the following options for improving the safety and preparedness of our state’s agricultural interests:

- 1) Improve training for veterinarians in recognizing foreign animal diseases
- 2) Develop a protocol for the use of rapid diagnostic tools in the field
- 3) Increase inspections of animals and agricultural products traveling into Texas
- 4) Use voluntary, non-intrusive means to improve communication with the public in cases of outbreaks or suspected outbreaks
- 5) Develop educational programs for animal owners on prevention and recognition of animal diseases
- 6) Develop guidelines to govern the slaughter of animals in case of an outbreak

In evaluating the NAIS and other proposals for addressing the issue, the Subcommittee should consider the following four factors:

- the level of risk posed by different activities and situations;
- the economic cost of the proposed solution;
- the burden placed on individuals, both in time and on their rights, by the proposed solution;
- the benefits to be gained from the proposed solution.

These factors must be considered in detail, and the Subcommittee should not accept vague, unsupported claims as to the risk, costs, or benefits.

Assessment of the risks

To date, the proponents of NAIS have provided only general claims that NAIS is a necessary program for animal health. They have provided no epidemiological studies supporting the design of the NAIS, particularly their claims that the program requires 100% participation to be effective for disease control.

The argument that small facilities are equally susceptible to disease as large facilities is wholly unsupported by scientific evidence or practical experience. Basic epidemiological principles establish that disease is most likely to occur, spread rapidly, and mutate to higher pathogenic forms in high-density populations. Thus, the greatest epidemiological risk is posed by high-density operations, such as feedlots and factory farm poultry operations. Small, low-density operations, while not immune to disease, pose a lower risk.

The susceptibility of animals to disease and the likelihood of transmission differ greatly depending on the species of animal, the exact disease, and the conditions under which the animals are kept.⁶ During the Exotic Newcastle Disease outbreak in California, for example, the American Veterinary Medical Association noted that the “virus can be spread by vaccination and beak trimming crews, manure handlers, and poultry farm employees. It can also survive for several weeks in a warm, humid environment on birds’ feathers, manure, and other materials.”⁷ Confinement poultry operations, in which the animals are debeaked and housed with thousands of other birds in a building, are clearly ideal conditions for the spread of the disease. In contrast, “pastured poultry” operations, in which the birds are kept in natural conditions on rotating pastures, have a far lower chance of developing or spreading Exotic Newcastle Disease or any other virus.⁸

As further evidence of this fact, in the 2004 outbreak of avian flu in Texas, the disease was found in a 6,600 bird flock in a commercial poultry operation; but despite testing more than 350 nearby non-commercial flocks, no infected birds were found in non-commercial flocks.⁹ In the 2002 outbreak of avian influenza in Virginia, “farm equipment, vehicles and personnel” moving among commercial facilities caused transmission of the virus.¹⁰ A recent report indicates that the spread of avian flu, including the greatly-feared H5N1 virus, is due to the conditions in confinement poultry operations.¹¹ As noted in that report, a USDA report found that, out of 45 outbreaks of avian flu in the country of Laos, 42 of the outbreaks occurred in commercial operations.¹² Non-commercial operations simply do not pose the same level of risk.

The level of risk will also vary based on the species of animals and the diseases. Horses, chickens, pigs, goats, llamas, bison, and elk each pose different issues than do cattle. Highly contagious, air-borne diseases call for different measures than non-contagious diseases with long incubation periods. A proper risk assessment would not simply treat all “livestock animals” and all diseases the same.

⁶ The health problems caused by confinement or industrial management systems have been well documented in the scientific literature. See, e.g., Cravener, T.L., W.B. Roush, and M.M. Mashaly, *Broiler Production Under Varying Population Densities*, POULT. SCI. 71(3):427-33 (1992); M.R. Baxter, *The Welfare Problems of Laying Hens in Battery Cages*, VET. REC. 134(24):614-19 (1994); D. Herenda and O. Jakel, *Poultry Abbatoir Survey of Carcass Condemnation for Standard, Vegetarian, and Free Range Chickens*, CAN. VET. J. 35(5):293-6 (1994); T.G. Nagaraja and M.M. Chengappa, *Liver Abscesses in Feedlot Cattle: A Review*, J. ANIM. SCI. 76(1):287-98 (1998); T.G. Nagaraja, M.L. Galyean, and N.A. Cole, *Nutrition and Disease*, VET. CLIN. N. AM. FOOD ANIM. PRAC. 14(2):257-77 (1998); D.H. Tokarnia, J. Dobereiner, P.V. Peixoto, and S.S. Moraes, *Outbreak of Copper Poisoning in Cattle Fed Poultry Litter*, VET. HUM. TOXICOL. 42(2):92-5 (2000).

⁷ R. Scott Nolen, *Emergency Declared: Exotic Newcastle Disease Found in Commercial Poultry Farms*, JOURNAL OF THE AMERICAN VETERINARY MEDICAL ASSOCIATION NEWS (Feb. 15, 2003).

⁸ See Exotic Newcastle Disease, Information from the Texas Animal Health Commission (Apr. 2004) (“In close confinement, such as commercial operations, the disease can spread like wildfire. ... **However, the virus is destroyed rapidly by dehydration and by the ultraviolet rays in sunlight.**”) (emphasis added).

⁹ News Release, Texas Animal Health Commission (Apr. 1, 2004).

¹⁰ E-Digest Volume 2, Number 11, *Issues Faced in the 2002 VA AI Outbreak*; paper presented by Dr. Bill Pierson, at the 2002 Poultry Health Conference sponsored by the Ontario Poultry Industry Council.

¹¹ Genetic Resources Action International (“GRAIN”), *Fowl Play: The Poultry Industry’s Central Role in the Bird Flu Crisis* (Feb. 2006) (hereinafter “GRAIN Report”).

¹² GRAIN Report (quoting USDA, *Laos: Poultry and Products—Avian Influenza*, GAIN Report, U.S. Department of Agriculture (Mar. 16, 2005)).

The assessment of disease risks should also consider the incidence and transmissibility of the disease. For example, when considering the inclusion of horses in this program, West Nile virus is probably the best known disease that can strike both horses and humans. But West Nile Virus is spread by mosquitoes, so that tracking horses would be ineffective. Further, there were only 1,075 cases of West Nile Virus in horses in 2005, only 27 of which were in Texas.¹³ These numbers are a significant reduction from 2002, 2003, and 2004. Similarly, there were only 584 cases of vesicular stomatitis reported in horses in 2005, out of an estimated 9 million horses nationwide. These numbers indicate that current control programs are working and the risks are low and decreasing.

To the extent one focuses on the potential for *intentional* harm against livestock and agricultural interests, the greatest risk is again posed by high concentration systems. Terrorists have the most to gain by attacking the greatest number of people and high-visibility targets. In 2005, the Government Accountability Office (GAO) issued a report on agriculture and terrorism, in which it noted that the concentration of our food supply is of concern: “the highly concentrated breeding and rearing practices of our livestock industry make it a vulnerable target for terrorists because diseases could spread rapidly and be very difficult to contain. For example, between 80 and 90 percent of grain-fed beef cattle production is concentrated in less than 5 percent of the nation’s feedlots. Therefore, the deliberate introduction of a highly contagious animal disease in a single feedlot could have serious economic consequences.”¹⁴ Thus, the inclusion of small farms and individual’s homes is not warranted by the terrorist threat. To the contrary, any program that threatens to further consolidate our food supply, as does the NAIS, is counterproductive.

Assessment of the economic costs

Neither the USDA nor the TAHC has done an analysis of the costs of the program. In looking to other programs for guidance, it is clear that the costs will far exceed the \$2-3 per animal that is frequently quoted. That estimate looks only at the cost of a basic tag, not the labor costs to the animal owners, the costs of establishing and maintaining databases, the cost of the equipment for scanning the tags, nor the myriad support costs that will be needed.

Australia has implemented an electronic identification system for cattle. The Australian Beef Association has estimated that the costs for its program could be as high as \$40 for each animal.¹⁵ The Association noted that a British parliamentary committee found that Britain’s tracking program cost as much as \$69 per animal sold. While the costs will vary for each species of animal and size of facility, they are clearly not negligible.

The costs will presumably be divided among the producers, the taxpayers, and consumers, thus making them less obvious. Yet the total cost is a critical issue. We live in a world of limited

¹³ Disease Surveillance Information: West Nile Virus, Animal Plant Health Inspection Service, United States Department of Agriculture,

http://www.aphis.usda.gov/vs/ceah/ncahs/nsu/surveillance/wnv/WNV_2005map_122905.pdf

¹⁴ United States Government Accountability Office, GAO-05-214, Homeland Security: Much is being done to protect agriculture from a terrorist attack, but important challenges remain (Mar. 2005) at p.1 (hereinafter “GAO Report on Agriculture”).

¹⁵ Australian Beef Association, Submission to the Queensland Government Relating to the National Livestock Identification System Regulatory Impact Study (2005).

resources on every level: federal government, state government, and individuals. As discussed in more detail below, there are many actions that can be taken to improve animal health and protect agriculture in this State. The Legislature must carefully consider what measures will provide the greatest benefits for the lowest cost.

Assessment of the burden placed on individuals' rights

Costs are not merely monetary. The plans for the NAIS have not addressed individuals' concerns over the government intrusion into their privacy and the burden on property rights. Never before in the history of our country has a person had to report to the state and federal government simply because he or she owns animals.

The later stages of the program would require people to report a long list of events to a government-accessible database, including whenever they sell, kill, or commingle animals. For example, the Cattle Species Working Group's recommendations require that individuals report when their cattle are jointly grazed with other people's cattle, or when they are taken to an exhibition or rodeo.¹⁶ Animals do not move themselves, so such reporting translates into reporting the owners' movements and activities.

The NAIS represents an unprecedented expansion of the government bureaucracy into people's private lives and infringes on individual's property and privacy rights.

Assessment of the benefits

In assessing the benefits, the first issue is to identify what problem needs to be solved. After all, we already have multiple means for tracking animals: the brucellosis program, the scrapie program, brands, sales records, health certificates, and owners' records. As with the diseases, the tracking mechanisms vary by species, as is appropriate.

The proponents of NAIS insist that we need better tracking systems that allow 48-hour traceback of all animal movements. Yet they have not explained what the benefits of this system will be nor have they presented any epidemiological studies showing the significance of the 48-hour goal. As discussed above, there has also been no support offered for the claim that 100% of premises and 100% of livestock animals must be included in the program.

These are critical questions, especially given that we have existing means for tracking animals. If the government proposes to replace existing programs with a new, far more expensive and intrusive program, the government should show what benefits will be obtained as compared to the existing programs. Good science and sound policy-making require that the anticipated benefits be specified and quantified in some manner, so that they can be compared to the costs.

Moreover, there is no evidence that the NAIS can actually deliver 48-hour traceback in practice. While proponents have repeatedly pointed to Australia as an example of a system we should emulate, a review of the Australian system indicates exactly the opposite. Multiple reports from the Australian newspapers discuss the problems with the databases. To get a first-hand

¹⁶ Presentation of the Cattle Species Working Group, National Animal ID Expo (August 22, 2006).

account, FARFA contacted an Australian cattle producer in Melbourne. He stated that, in the year since their electronic tracking program was implemented, he has never gotten completely correct information from the database. He has had animals listed in the database that were not his; he has been unable to find animals that he owns that should have been in the database; and the factual information about the animals has frequently been incorrect. The U.S. has many more cattle than does Australia, and the TAHC is proposing to include many other species in the program as well. If the Australian databases have had such significant problems, what can we expect from the U.S. program if it is implemented?

Comments on alternative means for protecting agricultural interests in Texas

FARFA recommends that the Subcommittee consider the following options for improving the safety and preparedness of our state's agricultural interests:

- 1) Improve training for veterinarians in recognizing foreign animal diseases
- 2) Develop a protocol for the use of rapid diagnostic tools in the field
- 3) Increase inspections of animals and agricultural products traveling into Texas
- 4) Use voluntary, non-intrusive means to improve communication with the public in cases of outbreaks or suspected outbreaks
- 5) Develop educational programs for animal owners on prevention and recognition of animal diseases
- 6) Develop guidelines to govern the slaughter of animals in case of an outbreak

These recommendations, and the reasons supporting them, are discussed below. Several of these recommendations are based on the report issued by the Government Accountability Office in March 2005 on the issue of protecting agriculture from the intentional introduction of disease.¹⁷ The report focused on the issue of livestock diseases, and noted that the same measures that would protect against a disease outbreak would apply whether the disease was due to natural or intentional introduction of disease.¹⁸ Notably, the GAO did *not* identify any deficiencies in current mechanisms for tracking animals, or recommend that resources be allocated to create a program such as NAIS.

1. Improve training of veterinarians in recognizing foreign animal diseases.

The GAO report found that the United States “faces several complex challenges that limit the nation’s ability to quickly and effectively respond to a widespread attack on livestock and poultry.”¹⁹ The very first issue identified by the GAO was that many veterinarians lack the training needed to recognize the signs of foreign animal diseases.

¹⁷ United States Government Accountability Office, GAO-05-214, Homeland Security: Much is being done to protect agriculture from a terrorist attack, but important challenges remain (Mar. 2005) at p.56 (hereinafter “GAO Report on Agriculture”).

¹⁸ United States Government Accountability Office, GAO-05-214, Homeland Security: Much is being done to protect agriculture from a terrorist attack, but important challenges remain (Mar. 2005) at p.56 (hereinafter “GAO Report”).

¹⁹ GAO Report at p.6

While the USDA governs veterinary accreditation, Texas can still take measures to address this problem. The State can work with Texas A&M, one of the leading veterinary schools in the country. Based on the curriculum posted on its website, a course in foreign animal diseases is not required at Texas A&M.²⁰ In fact, there does not appear to be even an elective course dedicated to foreign animal diseases.²¹ Regardless of where the veterinarian obtains his initial training, all licensed and practicing veterinarians should be required to have training in foreign animal diseases as part of their continuing education requirements. This would require revisions to the State's continuing veterinary education program, established by §801.307 of the Veterinary Licensing Act.

2. Develop a protocol for the use of rapid diagnostic tools in the field

The GAO report also focused on the USDA's failure to use rapid diagnostic tools to test animals at the site of an outbreak.²² Rapid diagnostic tools exist for foot and mouth disease, classical swine fever, African swine fever, Rhinderpest, avian influenza, and Newcastle disease.²³ Use of these rapid diagnostic tests could not only detect diseases more rapidly, but would allow monitoring of nearby herds before symptoms appeared, reducing the pressure for widespread slaughter of animals. The TAHC and Texas Department of Agriculture should be directed to investigate the options for rapid diagnostic tests, including their cost and reliability.

3. Increase inspections of animals and agricultural products traveling into Texas

On a national basis, agricultural inspections at ports of entry declined between 2002 and 2004, while imports have increased. The GAO report noted that inspections are the "first line of defense against the entry of foreign animal and plant diseases."²⁴

The failure of the federal government to properly inspect imports is mirrored by the failure of Texas to properly inspect animals entering this state. When FARFA raised this issue in a meeting with TAHC, we were informed that there were insufficient funds to staff the inspection stations. We were further told that the limited funds were focused on maintaining the station at the I-10 crossing between Texas and Louisiana. Yet my husband has crossed that border many times with an animal trailer, and not once has the inspection station even been open. While our animals were healthy and we had all of the proper paperwork, it would have been simple to bring sick animals into the state, whether intentionally or unintentionally.

At this Subcommittee's hearing in May, David Kostrum of the Texas Department of Agriculture reported the results of 72-hour inspection "blitzes." Based on these spot inspections, he estimated that there are probably thousands of shipments that enter Texas in violation of Texas quarantine laws and regulations.

Controlling the spread of disease within Texas must first start with controlling the introduction of disease into the state.

²⁰ See <http://www.cvm.tamu.edu/dcvm/curriculum/CurrOverView.shtml> (website last checked September 3, 2006)

²¹ See <http://www.cvm.tamu.edu/dcvm/admissions/coursedesc.shtml> (website last checked September 6, 2006)

²² GAO Report at p.6.

²³ GAO Report at p. 31-32.

²⁴ GAO Report at p.7.

4. Improve communication with the public in cases of outbreaks or suspected outbreaks

One argument made in support of the NAIS is that it would provide the means for the state to notify animal owners in the event of an outbreak of a disease. But this issue is easily addressed without mandatory premises registration.

The state could establish a voluntary email or telephone notification system. Individuals could enroll and select counties for which they would like to receive notifications. They would not be required to provide the state with information on their homes or animals. In the event of an outbreak, an automatic email or phone message could be sent to the enrollees in the affected counties. This would be a low-cost mechanism that would address the communications issue without burdening people's property and privacy rights.

It is critical that improved communication be achieved in a voluntary manner. Under any mandatory program, it is inevitable that some people – whether for religious, economic, or other reasons – will refuse to comply. A mandatory program subjects these people to fines or even criminal penalties, which in turn creates a significant disincentive for them to seek a veterinarian's help if their animals do show signs of disease. Thus, a mandatory program would actually create conditions that increase the probability of disease outbreaks by undermining the first line of defense: the actions of private individuals and their veterinarians in quickly diagnosing and containing diseases.

To understand the potential problem, one has only to look at the outbreak of Exotic Newcastle Disease that occurred in Los Angeles in 2002, a situation that the proponents of NAIS have repeatedly referenced.²⁵ The Exotic Newcastle Disease outbreak was started and spread by cockfighting flocks.²⁶ Cockfighting is illegal in California and the roosters were smuggled in from Mexico.²⁷ Had the animal owners not been concerned about the penalties for their illegal activities, they might have sought care for their birds earlier and prevented the spread of the disease. Although FARFA does not condone illegal activity in any form, the likelihood that mandatory premises registration and animal identification will lead to individuals owning animals illegally is an unfortunate reality that must be taken into account in order to develop effective policies.

Similarly, while the TAHC has claimed that premises registration will help them avoid the need to drive down country roads to identify animal owners, this clearly is not realistic. There will never be 100% compliance with any regulation. Thus, even if premises registration were to be implemented on a mandatory basis, there would be unidentified premises. If it is important for the agency to notify every animal owner and test every animal, the agency officials will still have to drive the country roads. And, under those circumstances, the illegal animal owners will have an incentive to deceive the state authorities.

²⁵ See, e.g., News Release, Texas Animal Health Commission (Feb. 28, 2006).

²⁶ R. Scott Nolen, *Exotic Newcastle Disease Strikes Game Birds in California*, JOURNAL OF THE AMERICAN VETERINARY MEDICAL ASSOCIATION NEWS (Nov. 15, 2002)

²⁷ See News Release, Texas Animal Health Commission (Jan. 1, 2003) ("END likely was initially introduced into Southern California through illegal importation of infected birds."); Congressman Elton Gallegly, Smuggling Cockfighting Roosters a Conduit to Bird Flu, SANTA BARBARA NEWS-PRESS (Dec. 11, 2005).

It would be less expensive and more effective to develop voluntary methods for communicating with animal owners, particularly ones that encourage maximum participation by minimizing the government intrusion into people's lives and build trust and cooperation between producers and the government agencies.

5. Develop educational programs for animal owners on prevention and recognition of animal diseases

While the role of veterinarians is obviously important, as discussed above, in most cases the first line of defense is the animal owner. It is the animal owner who must recognize that an animal's illness calls for intervention by a veterinarian. The GAO report states: "Experts we spoke with told us that to effectively control the spread of highly contagious foreign animal diseases, such as FMD, it is critical to quickly identify animals that may have the disease, promptly confirm the presence of the disease with diagnostic tools, and rapidly vaccinate animals in the surrounding area."²⁸ While identification may occur at a sales barn or other point of concentration, it is preferable for it to occur while the animal is still on the farm and not spreading the disease. The role of the animal owner is thus critical to effective disease control. The State could encourage early identification of sick animals by providing free or low-cost courses in animal management that include information on the symptoms of contagious and high-risk diseases.

Educating animal owners is also the best means for preventing disease. Proper nutrition, sanitation, and on-farm quarantines of new animals can prevent disease from occurring or spreading within a herd. The issue of prevention is highlighted in the case of one of the best-known animal illnesses, BSE or "Mad Cow Disease." The generally-accepted theory is that BSE is caused by the use of animal feed containing contaminated animal products as a protein source.²⁹ BSE is thus entirely preventable: one simply has to avoid feeding cows any animal products from other mammals that might have the disease agent. In 1997, the Food and Drug Administration established regulations that prohibit the feeding of most mammalian proteins to cattle.³⁰ To properly address BSE and every other animal disease, animal owners need to be educated about practices that are likely to cause disease and thus have them the tools to minimize the occurrence of disease.

6. Develop guidelines governing when the slaughter of animals is, and is not, the appropriate way to address animal and human health.

²⁸ GAO Report at p.28.

²⁹ See USDA BSE Overview, <http://www.aphis.usda.gov/lpa/issues/bse/bse-overview.html>; see also BSE Facts, at http://www.aphis.usda.gov/lpa/issues/bse_testing/bsefacts.html ("Cattle can become infected with BSE by eating feed contaminated with the infectious BSE agent.").

Some individuals have proposed an alternative theory as to the cause of BSE, namely that it is the result of the use of organophosphate pesticides and mineral imbalances. The USDA, FDA, and beef cattle industry have not accepted this theory. And even under this alternative theory, BSE is an entirely preventable, non-contagious disease, against which the best defense is testing, not tracking, as discussed below.

³⁰ See 21 C.F.R. Pt. 589, discussed at USDA BSE Overview, <http://www.aphis.usda.gov/lpa/issues/bse/bse-overview.html>

While the GAO report did not identify the NAIS as important in controlling animal disease, the report highlighted an issue that must be considered in discussing the NAIS. What happens after an outbreak occurs? In many cases, including if FMD is re-introduced into the U.S., current USDA policy calls for “depopulation.” Stripping away the euphemisms, this means that the government will kill all susceptible animals, domestic and wild, within a 10 kilometer radius of the farm with the infected animal.³¹ Healthy animals would be killed, even though FMD is not generally fatal to animals or transmissible to humans. If the disease spreads beyond the initial quarantine zone, which is likely due to the USDA’s refusal to use rapid field tests, the government would continue to expand the kill zones.³²

As the GAO also noted, this kind of widespread slaughter of animals is “precisely the type of high-visibility destruction that some experts told us terrorists seek.”³³ It is also devastating to the animal owners, even those that receive government compensation. For many farmers and ranchers, the death of an animal is not fully compensated by cash for the animal’s alleged value. There are issues such as bloodlines and rare genetics, as well as indirect losses such as the often lengthy lead time necessary to buy new animals and raise them to the same stage of productivity or marketability.

While depopulation may be appropriate in some circumstances, the current State policies do not sufficiently address what those circumstances are, nor do they address full compensation for the animal owner. A review of the measures to address harm to agriculture would not be complete without addressing what the State will do when a disease outbreak does occur.

Conclusion

FARFA encourages this Subcommittee to carefully consider all of the proposals for fulfilling its charge to determine which provide the greatest benefits at the lowest costs, considering both the costs to the State and to individuals. These determinations should be based on scientific evidence, practical experience, and documented cost-benefit analyses.

We appreciate the opportunity to be a part of this process. FARFA and its members are deeply concerned about Texas agriculture, and look forward to working with the Texas Legislature on these issues.

Respectfully,

Judith McGeary
Executive Director

³¹ GAO Report at p.13 n.12 & p. 31.

³² GAO Report at p.31.

³³ GAO Report at p.31.