



June 12, 2008

Honorable Edward Schafer  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, D.C. 20250

Dear Secretary Schafer,

We are writing to urge USDA to allow private testing for mad cow disease using the rapid test kits that USDA itself uses, as an essential approach to resolving the current crisis in Korea over importing US beef.

Recent massive protests in South Korea against the US-Korea beef deal signed on April 18, 2008, make it urgent that USDA reevaluate its policy on private use of rapid BSE test kits. Dramatic action is needed to resolve the situation and gain access for US beef to the Korean market. Korean public reaction to the US-Korea beef deal, which allowed US cattle over the age of 30 months into South Korea and relaxed restrictions on bones in beef from cattle under 30 months of age, has been extraordinarily negative. Large public demonstrations began on May 2, 2008, have continued on an almost daily basis since and have escalated in size, with more than 100,000 demonstrating on June 10. The start date of the signed US-Korea beef deal, May 15, has long passed with still no sign of when, and under what conditions, US beef will be allowed back in South Korea.

Serious damage has already been done to the US brand and the reputation of US beef in Korea. Dramatic and definitive action is needed to repair the reputation of US beef and resolve the conflict. Perhaps the only step which could reassure the Korean public at this point would be for every US head of cattle that is shipped to Korea to be tested and found negative for BSE.

Although USDA has prohibited private use of the rapid BSE tests so far, it lost on this issue in March 2007 in a court case brought against it by Creekstone Farms. The USDA recently argued the appeal and could lose again. Instead of continuing down this unproductive course, we urge you to drop your appeal in Creekstone Farms Premium Beef vs USDA et al and allows the sale and use of the rapid BSE test kits. Based on our work with Korean consumer organizations and our extensive contacts with Korean media, we believe that the barriers currently to US beef in South Korea would probably largely decline or disappear if exporters tested their beef. A number of companies would

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be more than willing to test beef for BSE before exporting to these markets. In fact, as you know, the reason Creekstone sued the USDA was to regain lost income from exports to South Korea and Japan.

In addition, USDA's policy on private testing contradicts its position on labeling of beef to reflect the age of the cattle the beef came from, in particular whether they are over or under 30 months. Earlier this week, USDA Deputy Secretary Chuck Conners told the *Wall Street Journal* "We have said it's not our business to interfere with . . . private importers in Korea developing their own standards. And if US suppliers want to supply that product by those specifications, that's a private commercial transaction that we don't intend to interfere with and have no opposition to."<sup>1</sup> We believe the same logic applies to voluntary BSE testing. Both the BSE testing and age labeling should constitute "private commercial transactions."

Since the Korean public's concerns have to do with perceived safety problems with US beef, a USDA move to allow use of the BSE rapid test kits on beef exports would show the US is responding to those perceptions and concerns.

The alternative--to continue to prohibit private use of the rapid test kits--is a position that is very difficult to defend. In our view, it is anti-competitive, and is not based on sound science. We strongly disagree with USDA's assessment that the rapid test kits are "worthless" when used for a food safety purpose because their use could result in a false negative. While we agree the rapid test kits can miss a case of BSE in the very early stages of incubation, such test kits can catch the disease in later stages, before the animals shows symptoms. The European Union, using these rapid BSE test kits in government-mandated testing of seemingly healthy cattle approved for slaughter, turned up some 1,117 case of BSE between 2001 and 2006 and prevented meat from these infected animals from reaching European supermarkets<sup>2</sup>. Thus, these rapid tests are useful for screening cattle at slaughter and can pick up cases of BSE that would otherwise not be detected and go into the food chain.

We also believe that that companies that use the rapid tests should be allowed to label their meat as having been "tested for BSE," and sell it to US consumers who would like this extra level of protection. A Consumers Union national survey carried out in January 2004, found some 71% of the public supported testing of cattle for BSE and, of those, some 95% were willing to spend 10 cents more per pound of meat to buy tested meat<sup>3</sup> (The label claims "BSE-free" or "No BSE" should not be permitted, however, as they would be misleading, due to the potential of false negatives on the rapid test kits for animals in the early and mid stages of incubating BSE.)

Consumers Union believes that, ideally, the USDA, like Japan, should require testing of every cow over the age of 20 months at slaughter. At this time, the USDA is testing only a tenth of a percent of dead or slaughtered cattle. But at the very least the USDA should not prevent private companies from testing. Whatever the outcome of USDA's appeal Creekstone case, the USDA should drop its opposition to Creekstone and

<sup>1</sup> [http://www.truthabouttrade.org/index2.php?option=com\\_content&do\\_pdf=1&id=11845](http://www.truthabouttrade.org/index2.php?option=com_content&do_pdf=1&id=11845)

<sup>2</sup> See pg. 3 in [http://ec.europa.eu/food/food/biosafety/bse/mthly\\_cml\\_reps\\_bse2001\\_en.pdf](http://ec.europa.eu/food/food/biosafety/bse/mthly_cml_reps_bse2001_en.pdf)

<sup>3</sup> See pg. 3 in <http://www.consumersunion.org/CU-MadCowStudy.pdf>

may be forced by the courts to allow private BSE testing. However the perception of the agency would be much more positive if it were to take this step on its own.

Thank you for considering this change in policy.

Sincerely,



Michael K Hansen, Ph.D.

Senior Scientist



Jean Halloran

Director, Food Policy Initiatives

Cc:

Senator John Barrasso  
Senator Max Baucus  
Senator Sam Brownback  
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