Fighting for the U.S. Cattle Producer!

R-CALF USA

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June 6, 2017

Mr. Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

The Honorable Charles Grassley
Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

The Honorable Jeff Sessions
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

Sent via e-mail and U.S. Mail

Re: Request for a Full Investigation and Strict Antitrust Enforcement Action in the Wake of Unfolding Corruption Charges Against JBS

Dear President Trump, Chairman Grassley, Attorney General Sessions, and Secretary Perdue:

On May 26, 2017, *The Wall Street Journal* reported that leaders of the second-largest beef packing company in the United States, Brazilian-owned JBS, which is also the world's largest beef packing company, "admitted to paying about $150 million—mostly in bribes—to nearly 2,000 politicians." According to at least one news source, JBS and/or its controlling shareholder, J&F Investimentos, has hired law firm Trench, Rossi and Watanabe in the U.S. to negotiate a leniency agreement with the U.S. Department of Justice.[1]

[1] JBS's Controlling Company Denies Hiring Banks to Sell Assets, Anna Flávia Rochas, Meatingplace, May 24, 2017, available at http://www.meatingplace.com/Industry/News/Details/73425.

For the reasons stated below, R-CALF USA urges the United States Department of Justice (Justice Department) to reject any type of leniency agreement with JBS and to, instead, initiate a thorough, probing investigation into JBS's cattle procurement practices in the United States, its relationships and business dealings with members of Congress, officials and employees of the Justice Department, U.S. Department of Agriculture (USDA), Commodity Futures Trading Commission (CFTC), and other federal agencies; and officials and employees of the several state governments within which JBS has sought to influence government action and policies.

It is now crystal clear that JBS's business model relied heavily on unlawful and other corrupt practices to influence government actions and policies as well as to influence decisions by government-regulated entities, *e.g*., banks. It is, therefore, at least as likely as not that JBS has deployed that same corrupt business model in the United States. A full and complete investigation is needed to determine the full scope of JBS's potentially unlawful activities in the United States and the impact that any such unlawful activities have had on the nation's single largest segment of American agriculture – the U.S. live cattle industry,[2] which is comprised of hundreds of thousands of family-owned cattle farms and ranches and vitally important to the economic well-being of Rural America.[3]

To put into perspective the scope of JBS's known criminal activities, JBS admits spending nearly twice as much on unlawful bribes to promote its beef packing business as U.S. cattlemen pay in annual taxes to the mandatory beef checkoff program to promote beef,[4] including the promotion of JBS's beef. Further, the number of politicians that JBS admittedly bribed – presumably to further its beef packing business, is nearly four times greater than the number of politicians in the entire U.S. Congress.

In addition to controlling about 24 percent of the U.S. fed cattle market and, hence, the U.S. beef market,[5] JBS owns the largest cattle feeding company in the United States, JBS Five Rivers Cattle Feeding (Five Rivers), which feeds about 2 million, or about 8 percent, of the nation's 24 million fed cattle slaughtered each year.[6]

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[2] *See* Cash Receipts by Commodity, 2010-2017F, USDA Economic Research Service (the average cash receipts from sales of cattle and calves for the past five years was more than $72 billion per year, considerably higher than the second-place commodity, corn, at about $56 billion), available at https://data.ers.usda.gov/reports.aspx?ID=17832.

[3] According to the latest, 2012 census data, there are approximately 729,000 beef cattle operations in the United States, a decrease of about 544,000 beef cattle operations since 1980.

[4] The annual tax imposed on U.S. cattle producers is approximately $80 million per year.

[5] *See* Top 30 Beef Packers 2013, Cattle Buyer's Weekly (the top 4 packers control 85% of the fed cattle market and, hence, the beef market. With a daily slaughter capacity of more than 27,000 cattle, JBS alone controls about 24% of the market and is second only to Tyson that controls about 26% of the market), available at http://www.themarketworks.org/sites/default/files/uploads/charts/Top-30-Beef-Packers-2013.pdf.

[6] *See* Top 30 Cattle Feeders 2015, Cattle Buyer's Weekly; see also Livestock Slaughter, USDA NASS (January 2017), at 11 (the U.S. slaughtered 16.5 million fed steers and 7.7 million fed heifers in 2016), available at http://usda.mannlib.cornell.edu/usda/nass/LiveSlau//2010s/2017/LiveSlau-01-19-2017.pdf.

With its sheer market dominance in the single-largest segment of American agriculture – the U.S. live cattle industry[7] – JBS is perhaps the most powerful economic and political force influencing lawmakers and agency officials on a daily basis in Washington, D.C., and it has been since the late 2000s.

At least since 2008, JBS was inexplicably accorded considerable latitude by U.S. officials while it aggressively captured dominant market shares in both the U.S. meatpacking sector and U.S. cattle feeding sector, despite obvious antitrust ramifications. And, the country that partnered with JBS in the recently disclosed corruption scheme, Brazil, has inexplicably avoided any meaningful scrutiny by U.S. officials of its documented health and safety problems. Alarmingly, U.S. officials did not take steps to ensure that meat imported from Brazil underwent all disease-related mitigation measures nor did they issue any substantive admonishments for Brazil and JBS's blatant food safety and/or animal health violations. All of which suggests a strong likelihood that public policy decisions regarding JBS and Brazil may have been based on inappropriate considerations.

Moreover, unfolding news reports indicate that JBS's entire history in the United States, including its acquisitions of meatpacking facilities and feedlots and all its lobbying activities involving Congress, federal agencies and state governments were underpinned by deceit and corruption. As such, all official government actions, including merger and acquisition approvals, executed at the behest of JBS should be nullified, voided and reversed.

Specific circumstances that raise the specter that JBS and/or Brazil were accorded special, inappropriate treatment by U.S. officials, and that JBS was likely involved in unlawful antitrust and anticompetitive activities in the U.S. include:

I. The United States Government Facilitated the Structural Building of JBS's Ill-gotten American Empires

JBS's 2008 Acquisition of Smithfield Beef Group and Five Rivers Cattle Feeding

Prior to JBS's 2008 acquisition of the nation's 5th largest beef packer and largest U.S. cattle feeding company, Smithfield Beef Group and Five Rivers, respectively, the Justice Department was fully apprised that JBS was a known bad actor, *i.e.*, that after a two-year investigation into the cartelization of Brazil's beef market, Brazil's Justice Department's antitrust division fined JBS and other Brazilian beef exporting companies USD $7.6 million to settle charges that JBS and other cartel members were engaged in "anticompetitive practices for coordinating price agreements among themselves in order to keep cattle prices low when purchasing livestock for slaughter."[8]

Not only did the Justice Department take no action to safeguard U.S. cattlemen or U.S. consumers from JBS's known history of anticompetitive conduct by conditioning the sales of

[7] *See supra*, fn 2.
[8] Exhibit 16 of R-CALF USA's letter to then Assistant U.S. Attorney Thomas Barnett, April 9, 2008 (Brazil Justice Dept. Fines Major Beef Cos in Cartel Case, Dow Jones Newswires, November 28, 2007), available upon request.

Smithfield Beef Group and Five Rivers with so much as a formal warning or admonishment, it completely ignored the direct, dire warning issued by then chairman of the U.S. Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy and Consumer Rights, Senator Herbert Kohl, who stated to the Justice Department that allowing JBS to acquire Five Rivers could enable it to "substantially depress prices paid to independent ranchers."[9]

Chairman Kohl futilely urged the Justice Department to, at a minimum, seek the divesture of Five Rivers and because the acquisition of Fiver Rivers would give JBS "an enormous captive supply of cattle," which, as Kohl explained, is the means by which JBS could readily manipulate domestic cattle prices.[10]

While the Justice Department failed to block the acquisition that was most likely to cause harm U.S. cattlemen, *i.e.*, the purchase of Five Rivers, it did, upon the joinder of 17 state attorneys general, initiate enforcement action in 2008 to block JBS from acquiring what was then the nation's fourth largest beef packer, National Beef Packing Company.

However, the Justice Department's dismissiveness regarding JBS's known conduct of harming both competition and cattlemen, as well as the express warning from the U.S. Senate Judiciary Subcommittee, raises the specter that decisions regarding the approval of JBS's 2008 acquisition of Smithfield Beef Group and Five Rivers were based on inappropriate considerations.

JBS's 2009 Acquisition of Pilgrim's Pride

In 2009 JBS proposed to acquire the largest U.S. poultry integrator, Pilgrim's Pride, which competes directly with beef sellers in the U.S. protein market. Despite evidence demonstrating that the domination of two competing protein markets, *i.e*, substitute proteins beef and chicken, would enable JBS to manipulate live cattle prices by unilaterally varying the output and price of its poultry operations, the Justice Department took no action to protect competition or to otherwise prevent JBS's exercise of abusive market power.[11]

The Justice Department's dismissiveness regarding the potential for a known bad actor – JBS, to exploit the tremendous market power gained from controlling dominant shares in both the U.S. chicken and beef market raises the specter that decisions regarding JBS's acquisition of Pilgrim's Pride were based on inappropriate considerations.

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[9] Letter from Senator Herbert Kohl to Assistant U.S. Attorney Thomas Barnett, June 24, 2008, available at https://www.r-calfusa.com/wp-content/uploads/competition/080624SenHerbKohlLetter2DoJ.pdf.
[10] *Id*.
[11] *See, e.g.*, letters from R-CALF USA to the Department of Justice dated Sep. 21, 2009, Oct. 2, 2009, Oct. 15, 2009, Nov. 9, 2009 and memorandums dated Oct. 8, 2009 and Oct. 19, 2009, available at https://www.r-calfusa.com/the-issues/competition-issues/.

JBS's 2010 Acquisition of the McElhaney Cattle Company

In 2010 JBS acquired McElhaney Cattle Company, one of the United States' 25 largest cattle feeding operations located in Welton, Arizona. As with the previous sale of Fiver Rivers, the Justice Department took no action to block this acquisition, which increased JBS's already unprecedented market power in the cattle feeding industry. This acquisition, inexplicably approved by the Justice Department, further increased the price-depressing supply of captive cattle available to JBS to further reduce competition and reduce domestic cattle prices paid to U.S. cattlemen.[12]

Given JBS's recent admission that it obtained acquisition loans through unlawful bribes, at the very least, the Justice Department was likely lied to by JBS's regarding its eligibility to secure adequate financing for the McElhaney Cattle Company acquisition as well as for all its earlier acquisitions. This, itself, indicates that JBS obtained its acquisition approval from the Justice Department under false pretenses. The Justice Department's perfunctory acquiescence to JBS's request raises the specter that the decision to approve the acquisition was based on inappropriate considerations.

JBS's 2012 Acquisition of Two U.S.-based Packing Plants Owned by XL Four Star Beef

In 2012 JBS sought to acquire two additional U.S.-based packing plants then owned by Canadian-based XL Four Star Beef. Despite requests to Congress, the Justice Department and the USDA urging the sale be blocked to prevent JBS from reducing competition and causing serious harm to consumers and cattlemen, the acquisition was, once again, perfunctorily approved by the Justice Department.[13]

The Justice Department and the USDA helped JBS build its ill-gotten American empire in the beef packing and cattle feeding industries, as well as in those industry's competition – the chicken processing and chicken-growing industries, respectively.

II. JBS Was Found to be a Bad Actor on U.S. Soil Soon After Entering the U.S. Meatpacking Business

JBS entered the U.S. meatpacking business in July 2007 when it purchased Swift & Company.[14] Since then, the USDA Grain Inspection, Packers and Stockyards Administration (GIPSA) has taken at least two formal actions involving anticompetitive conduct by JBS. In December 2009, JBS consented to paying a penalty of $6,200 and to cease from inaccurately weighing carcasses.[15] On Dec. 22, 2010, JBS consented to paying a penalty of $175,000 in response to GIPSA's complaint that it had unlawfully reduced the price of hogs paid to hog farmers by an estimated $350,000 (meaning JBS was allowed to keep half of its ill-gotten

[12] *See, e.g.*, letters from R-CALF USA to the Department of Justice dated, July 2, 2010 and August 18, 2010, available at https://www.r-calfusa.com/the-issues/competition-issues/.
[13] *See e.g*., letter by 43 U.S. organizations to Department of Justice, Dec. 21, 2012; letters from R-CALF USA to Department of Justice, Congress and USDA, Oct. 24, 2012 and Nov. 5, 2012, available at https://www.r-calfusa.com/the-issues/competition-issues/.
[14] Investigative Report, USDA-GIPSA, Investigation Nos. 33538, 33541, 33543, 33544 (February 5, 2009), at 4, available upon request.
[15] *See Id.*, at 5.

gains).[16] The GIPSA had also placed JBS on notice at least twice: in May 2009 for failing to file its annual report and in September 2008 for failing to file a scale test report.[17]

Also, following R-CALF USA's request for an investigation into the unexplained collapse of the cattle futures market that occurred in October 2009,[18] JBS was found to be involved in a cattle futures transaction that resulted in the Commodity Futures Trading Commission (CFTC) ordering futures commission merchant Newedge USA, LLC (Newedge), to pay more than $220,000 for violating speculative position limits in live cattle future trading.[19] In its order, the CFTC described the unlawful transaction in part by explaining:

> On Friday, October 9, 2009, Newedge and JBS, a live cattle end user, agreed that JBS would sell Newedge 4,495 contract long October 2009 live cattle futures position. Newedge would hedge the purchase with a short position in an underlying swap in live cattle and sell JBS a live cattle swap.[20]

The CFTC further stated that Newedge agreed to this transaction to assist JBS and that the transaction caused Newedge to exceed the speculative limit for trading live cattle.[21]

III. The United States Government Helped JBS Create a Legal Framework Within Which the Company Could Exploit Its Ill-gotten Market Power

In conjunction with its ambitious agenda to capture dominant market shares in the U.S. cattle, beef, pork and chicken industries, JBS worked aggressively to reshape the legal framework within which it could exploit its tremendous market power to procure domestic cattle at less than competitive prices. Congress and the USDA contributed greatly to this effort, which was, strangely, fully supported by conventional producer groups that appeared naively enamored at the privilege of associating with and assisting the corrupt Brazilian behemoth. Consequently, independent U.S. cattlemen on one side of the beef supply chain and consumers on the other have been harmed by non-competitive pricing for cattle and beef, increased risk of disease introduction, increased risk of food-born illness, and the systemic weakening of our nation's food security.

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[16] *See* USDA-GIPSA Enforcement Actions - 2010, available at https://www.gipsa.usda.gov/psp/enforce/enforc_2010.aspx.

[17] Investigative Report, USDA-GIPSA, Investigation Nos. 33538, 33541, 33543, 33544 (February 5, 2009), at 5, available upon request.

[18] *See, e.g.*, R-CALF USA's letter to the Department of Justice and the USDA, February 10, 2011 (mentioning R-CALF USA's earlier complaint to GIPSA concerning the October 2009 cattle futures anomaly), available at https://www.r-calfusa.com/wp-content/uploads/competition/110210LetterButlerJBSUnlawfulTransaction.pdf.

[19] CFTC Orders Chicago-Based Futures Commission Merchant Newedge USA, LLC to Pay More than $220,000 for Violating Speculative Position Limits in Live Cattle Futures Trading, U.S. CFTC, Feb. 07, 2011, available at http://www.cftc.gov/PressRoom/PressReleases/pr5981-11.

[20] Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions, U.S. CFTC, Feb. 07, 2011, available at http://www.cftc.gov/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfnewedgeorder020711.pdf.

[21] *See id*.

The Derailment of the 2010 GIPSA Rules

In the 2008 Farm Bill Congress directed the USDA-GIPSA to promulgate rules to implement the 96-year-old Packers and Stockyards Act that prohibits packers from harming domestic cattlemen by engaging in anticompetitive conduct in the marketplace. Implementing rules were proposed by GIPSA in 2010 and JBS was instrumental, if not controlling, in derailing these important rules using its ill-gotten market power and political power. Unprecedentedly, JBS participated in, if not led, the effort to secure the signatures of a remarkable, 147 members of Congress who assisted it in derailing the rulemaking process.[22]

This unusual level of congressional activism, conducted after the comment period for the GIPSA rule was closed, was then followed by unusual insertions of very specific language in successive appropriations bills that effectively barred the USDA from finalizing the GIPSA rules. JBS's role in convincing Congress to support its political agenda by defeating the GIPSA rules should be fully investigated.

The Abandonment of Country of Origin Labeling by the USDA and Congress

Congress passed mandatory country of origin labeling (COOL) for beef and pork and other commodities in the 2002 Farm Bill and later amended the law in the 2008 Farm Bill. JBS, a lead opponent of mandatory COOL, helped convince Congress to delay and ultimately repeal the COOL law, which Congress did in 2015. Based on information and belief, JBS worked against the interests of the United States independent cattlemen by working to repeal COOL in Congress, in the U.S. court system, and at the World Trade Organization (by, *inter alia*, supporting the complaint filed by Mexico and Canada).

It is a travesty that American cattlemen and American consumers have been deprived of labels that once informed them of where the animals from which their beef was derived were born, raised and slaughtered in large part because the United States naively allowed a corrupt JBS to begin building its political and economic monopoly on the backs of hard working American cattlemen.

The Systematic Relaxation of Essential Disease-related Import Restrictions

In 2014 the USDA proposed to lift its foot-and-mouth disease (FMD) import restrictions for Argentina. In early 2000, Argentina misled USDA officials about its FMD status by failing to provide notice that it was experiencing widespread outbreaks of FMD, which forced the USDA to take emergency action to prevent the introduction of the pernicious disease into the United States.[23] During a telephone conversation with then USDA Chief Veterinarian Dr. John Clifford, I asked him what measures the United States would impose to ensure that Argentinian officials do not, again, refuse to adequately notify the United States when disease outbreaks occur. His response was,

[22] *See, e.g.*, 147 Congress Members Urge Withdrawal of GIPSA Rule, Poultry World, May 23, 2011 ("More than one-third of the members of the House of Representatives have called on Secretary of Agriculture Tom Vilsack to go back to the drawing board with a rule on the marketing of livestock and poultry . . ."), available at http://www.poultryworld.net/Broilers/Markets--Trade/2011/5/147-Congress-members-urge-withdrawal-of-GIPSA-Rule-WP008902W/.

[23] *See, e.g.*, R-CALF USA Comments in Docket No. APHIS-2014-0032, RIN 0579-AD92: Importation of Beef from a Region in Argentina: Proposed Rule, April 22, 2014, at 8, available upon request.

essentially, that the officials who misled the United States in early 2000 are not the same officials in the Argentinian government today, so it is no longer a problem. But, now we find that the same lack of integrity, trustworthiness and responsibility exhibited by the Argentinian government in early 2000 has manifested itself in Brazil, and here it appears to be many times worse.

This begs many questions about the United States' reliance on representations by Brazilian officials when the U.S. lifted its vital FMD import restrictions for Santa Catarina, Brazil, in 2010,[24] and again lifted those restrictions for 14 more states in Brazil in 2015.[25] Among those questions is how can the U.S. have any confidence whatsoever that Brazilian officials or officials from JBS and other Brazilian slaughtering plants have and continue to comply with the United States' 11 specific FMD mitigation requirements for exporting beef to the United States?[26] The U.S. is wholly dependent on the trustworthiness, integrity and responsibility of JBS and other Brazilian meatpackers to ensure, e.g., that only beef derived from animals that originated from premises where FMD was not present during their lifetime and that all animals were moved directly from premises of origin to the slaughtering establishment without any contact with other animals.[27] Given the widespread corruption and bribery now known to exist among and between JBS and the Brazilian government, the U.S. has absolutely no assurance that its vital FMD mitigation measures are being followed.

Importantly, and alarmingly, there is no way for inspectors at the U.S. border to ascertain if such important mitigation measures were performed prior to the meat being presented for importation into the United States. Equally alarming is that there is no way for U.S. inspectors to ascertain whether beef presented for importation to the United States was derived from animals that were subject to stringent bovine spongiform encephalopathy (BSE) mitigation measures. Indeed, the USDA had discovered that some Brazilian plants were not complying with such measures. In 2012 the U.S. learned that Brazil had failed to disclose a BSE case first detected two years previous[28] and in 2014 the U.S. learned that Brazilian slaughtering plants failed to consistently implement BSE mitigation requirements.[29]

The overarching question is why did the United States not close its border to Brazilian beef imports, as did most major importing countries around the world, when the United States was first informed in March 2017 that Brazilian slaughtering plants were involved in widespread corruption? This is particularly perplexing because there is no way for U.S. inspectors to ensure that vital anti-mortem and post-mortem mitigation measures were properly conducted prior to the meat being presented for importation into the United States. The United States inaction in this regard has threatened the safety of Americans and raises the specter that important decisions regarding the importation of beef from Brazil were based on inappropriate considerations.

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[24] 75 Fed. Reg., 69,851-857 (Nov. 16, 2010).
[25] 80 Fed. Reg., 37,923-934 (July 2, 2015).
[26] *Id.*, at 37,934.
[27] *Id.*
[28] *See* Brazil's notification to the World Organization for Animal Health, OIE, Dec. 7, 2012, available at http://www.oie.int/wahis_2/public/wahid.php/Reviewreport/Review?reportid=12682.
[29] *See* Brazil Final Audit Report, USDA Food Safety and Inspection Service, January 2014, available at http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-productsforeign-establishments/foreign-audit-reports.

The Exploitation of the National Beef Checkoff Program

JBS is a direct benefactor of the national beef checkoff program that taxes both domestic cattle producers and importers the equivalent of $1 per head for nearly every animal sold in the United States. JBS's interest is represented on the board of the national beef checkoff program as a cattle and beef importer. The program raises about $80 million each year and because the proceeds are used to market and promote generic beef, *i.e.*, beef that is undifferentiated as to its origin so Brazilian beef is promoted as vigorously as USA beef, JBS benefits directly when it sells beef either domestically or internationally.[30]

Thus, JBS, now known to be corrupt and dishonest, has been and is exploiting the good name, reputation and image of U.S. cattlemen, along with using their hard-earned dollars, to help it bolster its ill-gotten profits. The fact that the USDA has refused to reform the beef checkoff program that directly benefits JBS, particularly after auditors were unable to determine if the program complied with U.S. laws and regulations, raises the specter that decisions regarding the beef checkoff program and JBS's involvement in the program were based on inappropriate considerations.

The Manipulation of the U.S. Cattle and Beef Markets

The U.S. cattle market suffered an unprecedented collapse in 2015 and 2016. Fed cattle prices fell about $67 per hundredweight (cwt), or by more than $850 per head from October 2014 to October 2016. Billions of dollars in equity was erased from the balance sheets of U.S. cattlemen. Yet, for the 8 months following the freefall of U.S. cattle prices, beef prices to consumers continued to climb. This cattle-price drop was contrary to the USDA's predictions that cattle prices would continue increasing until 2018. The U.S. Government Accountability Office (GAO) is currently investigating the cause or causes for this disastrous reduction in the value of U.S. cattle.[31]

R-CALF USA believes JBS was instrumental in driving down the value of U.S. cattle. We believe JBS used its substantial hoard of captive supply cattle to do exactly what the former chairman of the Senate judiciary subcommittee, Senator Herbert Kohl, said it would do if JBS were allowed to acquire Five Rivers: "JBS [] could strategically slaughter this captive supply at certain times without needing to purchase cattle on the spot market. Such conduct could substantially depress prices paid to independent ranchers."[32]

In addition, we believe JBS purposely caused the overfeeding of fed cattle throughout the price collapse by restricting timely market access to slaughter-ready cattle, we also believe JBS engaged in collusion to suppress cattle prices by dividing territories, manipulative bidding conduct, agreements not to bid, and coordinating its exit from the spot market. And, we believe JBS strategically timed its importation of live cattle and beef to further depress the U.S. cattle market. The

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[30] The USDA Office of Inspector General completed an audit of the beef checkoff program in 2014 and could not determine if the program is being operated in accordance with U.S. laws and regulations. *See* Agricultural Marketing Service Oversight of the Beef Promotion and Research Board's Activities, Office of Inspector General, Audit Report No. 01099-0001-21, available at https://www.usda.gov/oig/webdocs/01099-0001-21.pdf.
[31] *See, e.g.*, letter from U.S. Senate Judiciary Committee to the U.S. Comptroller General, April 20, 2016, available at https://www.r-calfusa.com/wp-content/uploads/2013/04/160420-Senate-Judiciary-GAO-Letter.pdf.
[32] *See supra*, fn. 9.

value of imported beef and cattle in 2015 was a record $9.1 billion in 2015, which far exceeded the $6.2 billion in exports. Brazil's beef exports to the U.S. represented the 5th largest volume of imported beef in 2015. Imports from Brazil in 2015, the year prices collapsed, were about 84% greater than in 2014. JBS is a major importer of beef from Brazil.

The Sheer Scope of JBS's Inexcusable Conduct

From unlawfully securing loans to abusing pension funds to selling tainted beef to bribing government officials to violating Amazon rainforest protection laws to insider trading, the list of inexcusable conduct that JBS allegedly committed is incomprehensible. The fact that JBS was allowed to build its political and economic monopoly in the United States with impunity raises the specter that decisions regarding JBS, at nearly every level of government, were based on inappropriate considerations.

IV. Conclusion

If the above allegations against JBS are correct, then JBS has made a mockery of U.S. laws and regulations. JBS came to the United States with a history and reputation of being a bad actor. Within just a few short years (since 2007) JBS has essentially colonized our cattle, beef and other protein industries. It has effectively infiltrated conventional cattlemen's associations and other industry trade groups, amassed powerful, monopolistic marketing structures, and engaged in anticompetitive and antitrust conduct with impunity.

JBS was nearly unstoppable in its quest to reshape the America's legal framework within which America's cattlemen are losing their struggle to maintain a functioning marketplace. From preventing the promulgation of implementing regulations for the Packers and Stockyards Act to defeating COOL so imported beef remains undifferentiated from USA beef to convincing the USDA to systematically relax essential health and safety import restrictions, JBS was destroying the cornerstones of the American cattle industry and threatening the safety and security of our food supply.

Since 2008 R-CALF USA has repeatedly provided the Justice Department, the USDA, the CFTC and Congress with evidence that JBS was a bad actor and it was harming the U.S. cattle industry through the exercise of its abusive marketing power. With only one exception, our repeated calls for action were ignored. That exception occurred in 2008 when 17 state attorneys general joined together to convince the Justice Department to stop JBS's proposed acquisition of National Beef Packing Company. That exception proved only a token and had little impact on JBS's empire building.

Today, R-CALF USA urges the Justice Department, the USDA, the CFTC and Congress to work together to restore the integrity to the U.S. cattle and beef industries by conducting a thorough and probing investigation into every aspect of JBS's operations in the United States since 2007. The United States should leave no stone unturned and should vigorously enforce each and every U.S. antitrust law and fair practices laws such as the Packers and Stockyards Act. Importantly, there should be no leniency agreement that does not fully compensate every U.S. cattlemen and every U.S. consumer for the harm that JBS has inflicted upon them through its corrupt practices.

If it is found that JBS has, indeed, built its monopolistic U.S. livestock and meat empire through unlawful means, then every U.S.-based asset owned by JBS should be immediately divested. Similarly, if it is found that JBS engaged in unlawful conduct to curry public policy favors from Congress, federal agencies, and state governments (e.g., repeal of COOL, defeat of GIPSA rules and relaxation of disease protections) then those policy positions should be immediately revisited, if not reversed.

Thank you for your consideration of this important request. Please contact me at 406-670-8157 if R-CALF USA can provide any additional information or be of assistance to the investigation.

Sincerely,

Bill Bullard

Bill Bullard, CEO

Cc: Select Members of Congress
Select Industry Representatives
Select State Attorneys General