

Policy Pennings by Dr. Daryll E. Ray

## Curiouser and curiouser this BSE Saga

It all seems like a scene out of *Alice's Adventures In Wonderland*; the developments in the US/Canadian/Japanese BSE (bovine spongiform encephalopathy or mad cow disease) drama just get "curiouser and curiouser." The March 7 deadline to open the US/Canadian border to cattle under 30 months of age has passed and no cattle are moving: the result of an injunction granted by a Montana judge. US officials, including the President, continue to pressure the Japanese to reopen their markets to US beef, but any agreement is still in the future.

The whole saga began with the discovery of a BSE infected cow in Canada on May 20, 2003. Immediately following this event, the US closed its border to the importation of cattle from Canada. The US was worried that some of its export customers might close their markets to US processed beef if there was a chance the meat came from Canadian cattle.

Just a little over seven months after the discovery of BSE in Canada, the US had its first case of BSE when a cow in Mabton, Washington tested positive. Immediately, more than 30 countries shut off the importation of beef and beef products from the US; the most important of which was Japan. The US quickly dispatched a team to Japan to begin work on an agreement that would allow the US to resume exports of beef to Japan. The fact that the Mabton cow was traced to a herd in Alberta, Canada did not modify the negotiating stance of the Japanese.

Less than two months after a BSE infected cow was found in Mabton, Washington, Creekstone Farms submitted a request for permission to BSE test all the beef animals they slaughtered. Creekstone was responding to the loss of their Japanese customers. The United States Department of Agriculture (USDA) denied Creekstone permission, choosing instead to pressure the Japanese to open their market without requiring the US to adopt a 100% testing protocol for beef sent to Japan. The US adopted this strategy even though the Japanese test 100% of their beef animals and indicated a commitment to reimburse Creekstone for the tests.

Prior to all this, in August, 2003, the USDA announced that it would be relaxing the Canadian ban so as to allow for the importation of boneless bovine meat from animals under 30 months of age and boneless veal. Then in November 2003, the USDA opened up a 60 day comment period on rules that would allow for the importation of Canadian beef and live cattle under 30 months of age into the US. This rule was put on hold with the discovery of the Mabton cow and its Canadian connection.

In May 2003, following the USDA's refusal to allow Creekstone to test all of their cattle for BSE, it was discovered that, contrary to the published rules, the USDA had allowed for the importation of up to 33 million pounds of ground beef and beef products in contravention of the August 2003 memorandum.

A group of about 500 Alberta cattle producers filed a NAFTA claim against the US government to compensate them for the losses they had experienced as a result of the

US ban on Canadian cattle. The claim was filed in August 2004 and, as of the writing of this column, the hearing has not been scheduled.

At the end of December 2004, the USDA announced a decision to classify Canada as a minimal risk country for BSE. Given this new classification, the US would begin allowing the importation of Canadian cattle under 30 months of age into the US, beginning March 7, 2005. Within two weeks of this announcement, two additional Canadian cattle were diagnosed with BSE. R-CALF, an organization of cattle producers, filed for an injunction to stop the opening of the border on March 7. The injunction was granted by a judge in Montana.

In response to the injunction, the National Meat Institute (NMI) filed an appeal arguing that the district court erred in granting the preliminary injunction. The ability of Canadian processors to slaughter cheap Canadian beef and export it to the US as boxed beef is one of the concerns of the NMI. They argue that the closed border gives their Canadian competitors an advantage.

The USDA has not announced whether or not it will appeal the preliminary injunction. Meanwhile, rumors abound concerning various strategies the Bush administration might take to reopen the border to Canadian beef. These rumored strategies include non-judicial ways of working around the injunction..

What we find curious is the extent to which USDA officials and the large processors are willing to go to avoid the obvious solution. If every head of slaughtered beef were to be tested for BSE, most of the US BSE problems would vanish, especially if testing were coupled with a traceability process. With 100% testing, we believe the Japanese and the US's other export customers would reopen their markets. The testing of 100% of their cattle is the policy in Japan where 15 cases of BSE have been detected. Likewise, with 100% testing and traceability, the importation of Canadian cattle under 30 months of age would cease to be a concern.

In one of his recent copyrighted columns on AgWeb.com, Jim Weisemeyer quotes a former administration official as arguing that the first exporter to go to 100% testing would be in a position to increase its share of the world export market in beef. Given the strong feelings surrounding this issue, we would have to agree with that analysis. This makes the continued opposition to 100% testing "curiouser and curiouser," especially since Weisemeyer suggests that Canada could conceivably use 100% testing as their "trump card."

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