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FSIS Docket Clerk
United States Department of Agriculture
Food Safety and Inspection Service (FSIS)
Room 2534 South Building
1400 Independence Avenue SW
Washington, DC 20250-3700

TRANSMITTED ELECTRONICALLY ON REGULATIONS.GOV

RE: U.S. Cattlemen's Association Petition to Restrict Beef and Meat Terms on Food Labels

I. Introduction

Thank you for the opportunity to respond to FSIS-2018-0016, the U.S. Cattlemen's Association's February 2018 petition asking USDA to exclude products not derived directly from slaughtered animals from the definition of "beef" and "meat." As detailed below, our organizations urge the USDA to reject the petition.

The Good Food Institute (GFI) is a 501(c)(3) nonprofit organization dedicated to creating a healthy, humane, and sustainable food supply. GFI has a team of scientists, entrepreneurs, and policy experts who focus on using markets and food innovation to transform our food system to emphasize healthy, sustainable, and humane foods, including clean meat and plant-based alternatives. To learn more, please visit GFI.org.

At Field Roast Grain Meat Co., we talk about foodmaker pride which is the expression of our connection to the foods we make. We offer delicious vegan meats and chao cheese products. We see ourselves as a continuation of the tradition of making foods throughout the ages. We celebrate and honor the great foodmaking traditions of Europe and Asia and bring them together to make something special.

Finless Foods is an early-stage biotechnology company whose mission is to develop and mass manufacture pioneering marine animal food products for human consumption. Finless Foods seeks to create seafood sustainably using scientific cellular agriculture technologies, which will provide a cost-effective and healthier appetizing alternative to conventionally-caught and commercially-farmed seafood.

Hungry Planet produces premium plant-based meats that match conventional meat textures and tastes with healthy plant-based ingredients. Developed with more than 10 years of R&D in the heart of the Midwest, Hungry Planet's 100% plant-based meats use fewer resources from planet to production, and are used by culinary professionals throughout the USA and Australia in venues ranging from fine dining to public K12 and everything in between.

Impossible Foods makes delicious meat, fish and dairy foods directly from plants. The company's mission is to transform the global food system to support the planet and growing human population. Impossible Foods' first product is the Impossible Burger, which launched on July 26, 2016 and is served in over 1,000 restaurants and growing. Made for meat-lovers, the Impossible Burger tastes, smells, and cooks like meat from a cow, but is made entirely of plants and uses 25% of the water used, 5% of the land used, and emits 13% of the greenhouse gases emitted to make a burger from cows.

Lightlife is dedicated to making great tasting vegetarian food for a better you and a better planet. Since our founding in 1979, we have been on a mission to provide quality vegetarian and vegan foods prepared in the most healthy and sustainable manner. We believe plant protein makes a healthier choice for our customers and the planet.

Sweet Earth Enlightened Foods has been selling plant-based meats nationwide since 2012. Sweet Earth believes in smart food choices that honor & sustain the land, cultivate a curious mind & food palate and support a healthy body. One of Sweet Earth's best-selling products is Benevolent Bacon, a patented plant-based bacon that provides all the sensory cues of the pork-based version, but with 57% fewer calories and 75% less fat per serving.

The Tofurky Company has been an industry pioneer since it was founded in 1980, manufacturing plant-based alternatives to animal-derived meat, dairy, and egg products that allow consumers to seamlessly transition to healthier and more environmentally and ethically responsible plant-based diets.

Americans today enjoy a wide variety of plant-based alternatives to food that has historically come from animals. Increasingly, consumers are buying plant-based versions of meats, dairy products, and eggs, such as meaty burgers made of proteins derived from peas or wheat, soy milk and nut cheeses, and scrambles that get their eggy flavor from mung beans. In fact, these products now exceed three billion dollars in sales annually.¹ (For further information about plant-based meat, please see Attachment 1.)

¹ Nielsen 2017, <http://www.prweb.com/releases/2017/09/prweb14683840.htm>.

Clean meat — animal meat grown outside an animal — is not yet on the market. It is expected to appeal to consumers because the nutrition and sensory experience it delivers is the same as conventional animal meat, but its production method is more efficient and does not require slaughter. (For additional details, please see Attachment 2.)

Faced with these facts, the U.S. Cattlemen’s Association (USCA) is petitioning USDA to restrict the use of meat and beef terms on plant-based and clean meats. The Cattlemen are transparent about their rationale, stating directly: “[B]oth the synthetic product [sic] and the lab grown product [sic] from animal cells directly compete, or will soon directly compete, against actual beef products that are born, raised and harvested in the traditional manner. Thus, in USCA’s view both categories should be excluded from the definition of ‘beef.’”²

USDA should reject this invitation to create new labeling conventions that favor one method of meat production over another. As we explain below, the USDA does not have the authority to grant the Cattlemen’s request.³ Moreover, the proposal asks USDA to abuse its authority, act in contradiction to settled and well considered policy precedents, violate the First Amendment, and adopt an approach that would lead to absurd results. For all of these independent reasons, USDA should deny the Cattlemen’s request.

Our comments focus primarily on plant-based meats because they are currently on the market and have labeling conventions that are familiar to consumers. However, the basic legal and policy principles discussed further below would also apply to clean meat, and our comments are intended to inform the agency’s thinking on both.

II. The Cattlemen are petitioning USDA to act outside the scope of the agency’s authority.

As a preliminary matter, USDA cannot grant the Cattlemen’s petition because the agency lacks authority over the labeling of plant-based products.⁴ The Federal Meat Inspection Act (FMIA) grants USDA authority to prescribe restrictions to prevent false or misleading labels on meat and

² U.S. Cattlemen’s Association, *Citizen Petition* at 8, <https://www.fsis.usda.gov/wps/wcm/connect/e4749f95-e79a-4ba5-883b-394c8bdc97a3/18-01-Petition-US-Cattlement-Association020918.pdf?MOD=AJPERES> (citation omitted).

³ We use the shorthand “Cattlemen” throughout this comment to refer to the U.S. Cattlemen’s Association, which filed the petition to which we are responding. It is worth noting, however, that the National Cattlemen’s Beef Association (NCBA), like GFI and the plant-based and clean meat companies who join this comment, opposes the petition. Therefore, references to “Cattlemen” should not be read to refer to the industry as a whole.

⁴ It is too soon to know how specific clean meat products will be labeled. It is potentially a complex and nuanced issue and clean meat companies would welcome a dialogue with USDA.

meat food products.⁵ USDA defines “meat” as “[t]he part of the muscle of any cattle, sheep, swine, or goats which is skeletal or which is found in the tongue, diaphragm, heart, or esophagus”⁶ and “meat food product” as “food which is made wholly or in part from any meat or other portion of the carcass.”⁷ Because plant-based products do not fall within either of these definitions, the USDA has no authority over their labeling. Plant-based food products fall instead under the purview of the Food and Drug Administration (FDA).⁸

In recognition of this authority, USDA refers questions about the use of meat terms on plant-based labels to FDA. For example, in April 2016, USDA referred an inquiry about the label of a plant-based bacon product to FDA because the product did not contain pork (Attachment 3).⁹ Plant-based products are, by definition, meatless, and USDA therefore has no authority to restrict their labels as the Cattlemen request.

USDA similarly lacks the authority to address the alleged problem that the Cattlemen seek to address. Because plant-based and clean meat “directly compete, or will soon directly compete, against actual beef products that are born, raised and harvested in the traditional manner,” the Cattlemen argue that they “should be excluded from the definition of ‘beef.’”¹⁰ However, USDA is authorized only to regulate meat labels to protect the health and welfare of consumers, not to prop up an industry or favor one production method over another.

Indeed, in granting labeling authority to USDA, Congress stated: “It is essential in the public interest that *the health and welfare of consumers be protected* by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged.”¹¹

⁵ 21 U.S.C. § 607(c).

⁶ 9 C.F.R. § 301.2.

⁷ *Id.*

⁸ 21 U.S.C. § 392(a) (providing that “[m]eats and meat food products shall be exempt from the provisions of [the Food Drug and Cosmetic Act] to the extent of the application or the extension thereto of the Meat Inspection Act, approved March 4, 1907, as amended”); *id.* § 467f(a) (exempting poultry and poultry products from the Food Drug and Cosmetic Act).

⁹ FDA replied that the label contained the phrases “Vegan, Plant Based Substitute for Pork Bacon” and “Plant-Based,” and concluded that FDA “would likely not object to the use of certain terms like ‘bacon’ if they are appropriately qualified or if the label otherwise clearly and accurately discloses the nature of the product.” Email from Seyra Hammond, FDA, to Mark Wheeler, USDA (May 3, 2016), Attachment 3.

¹⁰ U.S. Cattlemen’s Association, *Citizen Petition* at 8.

¹¹ 21 U.S.C. § 602 (emphasis added).

Courts have affirmed that benefit to consumers, rather than economic protectionism, is the animating purpose of the labeling provisions of the FMIA.¹² In 1980, for example, when pork producers challenged a USDA rule that allowed the use of “nitrate-free” labels, the Eighth Circuit held that “the competitive effect [of such labels] on the producers of nitrate and nitrite-preserved products is of no consequence.”¹³ Specifically, the court found that producers “have no right to be free from competition” under the FMIA.¹⁴

In 2014, faced with the intersection of the Lanham Act and the Federal Food Drug and Cosmetic Act (FDCA),¹⁵ the Supreme Court held that “the Lanham Act protects commercial interests against unfair competition, while the FDCA *protects public health and safety*.”¹⁶ The same is true of the FMIA.¹⁷ USDA has no authority and no mandate to restrict labels simply to insulate particular producers from competition.

III. The Cattlemen’s petition directly contradicts settled and well considered policy precedents.

As detailed above, the Cattlemen’s proposal is driven by a self-interested motive outside of USDA’s authority — commercial favoritism. USDA has consistently refused to favor producers who use particular production or processing methods. For instance:

- For purposes of a “natural” designation on meat labels, USDA expressly rejected a bright-line rule about whether non-traditional processing methods qualify as minimal processing on natural meats. Instead, the agency decided to address the issue on a case-by-case basis, evaluating how similar the processing method is to a traditional process and whether the finished meat “has the same basic characteristics as a product that has not undergone such a process.”¹⁸
- USDA approved labels for “Turkey Ham” with the qualifier “Cured Turkey Thigh Meat” for meat products that resembled pork-based ham in taste and appearance.¹⁹

¹² See, e.g., *Am. Meat Inst. v. Ball*, 424 F. Supp. 758, 766 (W.D. Mich. 1976) (affirming the “Congressional goal of protecting consumers”).

¹³ *Nat’l Pork Producers Council v. Bergland*, 631 F.2d 1353, 1361 (8th Cir. 1980).

¹⁴ *Id.*

¹⁵ *Am. Meat Inst. v. Ball*, 424 F. Supp. at 762 (“[t]he labeling definition in the Wholesome Meat Act was adopted verbatim from the Food, Drug and Cosmetic Act”).

¹⁶ *POM Wonderful LLC v. Coca-Cola Co.*, 134 S. Ct. 2228, 2231 (2014) (emphasis added).

¹⁷ *Id.* at 2238; see also *Am. Meat Inst. v. Ball*, 424 F. Supp. at 762 (“the court may look for guidance to cases interpreting the identical language of the [FDCA]”).

¹⁸ 74 Fed. Reg. 46,951, 46,954 (Sept. 14, 2009).

¹⁹ *Am. Meat Inst. v. U.S. Dep’t of Ag.*, 646 F. 2d 125, 126 (4th Cir. 1981).

- In slides available on its website, USDA’s Agricultural Marketing Service (AMS) insists that all beef is grass-fed, regardless of whether cattle spend part of their lives confined to feedlots where they primarily consume grain.²⁰ (AMS used to verify “grass-fed” claims but does no longer.²¹)

For the most part, the meat industry has heralded these decisions. Disparaging the way a product is produced can obviously affect a producer’s bottom line. Just a few years ago, the industry took umbrage at the media’s use of derogatory terms for lean finely textured beef. Now, the Cattlemen are asking USDA to restrict labels for products it derisively calls “synthetic” and “lab grown.”²²

The Cattlemen’s proposal is out of step with the approach that the industry itself has urged USDA to take for years. For example, commenting in 2009 on USDA’s rule on “natural” claims on meat labels, the National Cattlemen’s Beef Association (NCBA) made it very clear that the industry opposed “claims that disparage one type of beef product for the perceived gain of another.”²³ It argued forcefully that USDA should “defend all products equally, enabling a marketing environment that allows consumer choice based on transparent facts.”²⁴ Similarly, NCBA justified its opposition to an organic rule that would have established animal welfare standards on the basis that the rule “vilified conventionally raised livestock.”²⁵

USDA should respond to the Cattlemen’s petition by re-affirming its commitment to use its labeling authority to ensure that meat and meat products are properly marked, labeled, and packaged for consumer health and welfare — not to favor one set of commercial interests over another.

²⁰ Rodney Bowling & Bucky Gwartney, USDA AMS, *Beef 101*, <https://www.ams.usda.gov/reports/beef-101>.

²¹ Craig Morris, USDA AMS, *Understanding AMS' Withdrawal of Two Voluntary Marketing Claim Standards* (Jan. 20, 2016) <https://www.usda.gov/media/blog/2016/01/20/understanding-ams-withdrawal-two-voluntary-marketing-claim-standards>.

²² U.S. Cattlemen’s Association, *supra* note 2.

²³ Gary Voogt, Nat’l Cattlemen’s Beef Ass’n, *Comment on FSIS Proposed Rule: Product Labeling: Use of the Voluntary Claim 'Natural' in the Labeling of Meat and Poultry Products*, FSIS-2006-0040-7600, <https://www.regulations.gov/document?D=FSIS-2006-0040-7600> at 2.

²⁴ *Id.*

²⁵ NCBA, *NCBA Applauds USDA's Withdrawal of Organic Marketing Rule* (Mar. 12, 2018), <http://www.beefusa.org/newsreleases1.aspx?NewsID=6609>.

IV. Restricting truthful labels that use “meat” or “beef” terms on plant-based meats would violate the First Amendment.

Clear labels on plant-based meats communicate two important qualities to consumers: that these foods are plant-based and that they are functionally meats — meaning that plant-based meats can be used and consumed just as the conventionally produced versions would be.²⁶ For example, regardless of whether burgers are made of beef, turkey, bison, soy, or wheat, they can be cooked on grills, placed in buns, and served with mustard and ketchup.

The product labels that the Cattlemen include as exhibits to their petition demonstrate this approach. The label for the Beyond Meat Beyond Burger clearly states that it contains “Plant-Based Burger Patties” that contain “20G of Plant Protein per Serving.” Thus, the consumer knows that this food is both plant-based and a burger. Likewise, Beyond Meat’s Beefy Crumbles label clearly identifies the plant-based nature of the product by stating that it has “13G of Plant Protein per Serving” and contains “Plant-Based Protein Crumbles,” while indicating the functional use of the crumbles, which are “Beefy” and are depicted in a tomato sauce over pasta.

These labels — which contain appropriate qualifiers or otherwise clearly and accurately disclose the nature of the product — are entirely truthful and do not violate the labeling requirements of the FDCA or the FMIA.

First Amendment jurisprudence makes clear that if the government were to restrict corporate speech to acquiesce to the Cattlemen’s petition (which must be the true aim of the petition, given that the allegedly objectionable labels are permissible under existing law), such restriction would need to further a legitimate and substantial government purpose. Privileging one sector of an industry over another does not qualify.

The Supreme Court’s decision in *Central Hudson Gas & Electric Corp. v. Public Service Commission* affirmed that commercial speech (like words on labels) is protected by the First Amendment.²⁷ The Court explained that the government can only restrict commercial speech when the restriction directly advances a substantial governmental interest.²⁸ Moreover, the

²⁶ Clean meat companies are developing clean meat products to meet the compositional, functional, and nutritional characteristics under USDA’s product-specific regulations and standards. We, nonetheless, understand that it would be premature for USDA to make labeling determinations for specific clean products without having had the opportunity to evaluate such products and their labeling. We respectfully request that USDA work closely with clean meat companies to determine the appropriate labeling for these products.

²⁷ *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of N.Y.*, 447 U.S. 557 (1980).

²⁸ *Id.* at 564.

restriction must not be more extensive than necessary.²⁹ The Court later clarified in *Sorrell* that content-based restrictions – which prohibit speech on the basis of what it says – are subject to heightened scrutiny.³⁰

It would be difficult, if not impossible, to imagine a scenario where the government would meet the high bar of demonstrating that banning names with clear, truthful descriptors (e.g., “plant-based burger patties” or “beefy plant-based protein crumbles”) is not an overly restrictive approach to ensure consumer understanding.³¹

To illustrate, in 2017, the Eleventh Circuit held that the state of Florida violated the First Amendment when it told a creamery that it could not label its fat-free milk as “skim milk” without adding Vitamin A.³² The court found that the state’s restriction on the term “skim milk” was “clearly more extensive than necessary to serve its interest in preventing deception and ensuring adequate nutritional standards.”³³

Consumers are by no means confused about the labeling of plant-based foods, and they readily distinguish between animal meats and plant-based meats. In a 2011 study, non-vegetarian consumers were asked to group images of a variety of animal-based meats and plant-based meats.³⁴ Their groupings were “largely influenced” by the distinction between the products’ origin, with animal meats being grouped together by species (cattle, chicken, or pig). However, consumers also grouped the products by form, with pork sausage grouped with vegetarian sausage and chicken burgers with soy burgers.³⁵ Thus, consumers understand both the origin and form of plant-based products.

For these reasons, the First Amendment protects the right of plant-based meat producers to accurately describe their products and prevents USDA from restricting speech in order to cater to the Cattlemen’s demands. Furthermore, because the Cattlemen’s petition raises serious constitutional problems, any USDA restriction of plant-based and clean meat labels would not be accorded the judicial deference the agency typically enjoys under *Chevron*.³⁶

²⁹ *Id.*

³⁰ *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 565 (2011).

³¹ *See Pearson v. Shalala*, 164 F.3d 650, 655 (D.C. Cir. 1999).

³² *See Ocheese Creamery LLC v. Putnam*, 851 F.3d 1228 (11th Cir. 2017).

³³ *Id.* at 1240.

³⁴ AC Hoek et al., “Identification of New Food Alternatives: How Do Consumers Categorize Meat and Meat Substitutes?” *Food Quality and Preference* vol. 22, 371-83 (2011).

³⁵ *Id.*

³⁶ *U.S. West, Inc. v. F.C.C.*, 182 F.3d 1224, 1231 (10th Cir. 1999) (“deference to an agency interpretation is inappropriate not only when it is conclusively unconstitutional, but also when it raises serious constitutional questions”); *see also Rust v. Sullivan*, 500 U.S. 173, 190 (1991).

V. The policy that the cattlemen propose would inhibit innovation across the industry.

By asking USDA to limit the definition of “beef” to meat that comes from cattle “that have been born, raised, and harvested in the traditional manner,”³⁷ the Cattlemen are putting USDA in the untenable position of policing the methods of meat production for “traditionality.” Needless to say, the agency’s resources are better put to food safety. Nonetheless, even if USDA were predisposed to grant the Cattlemen’s petition, doing so would be a mistake, as it would inhibit innovation across all production methods.

Methods of cattle production today would have been unthinkable to our great grandparents. As the Wyoming Beef Council puts it, “Ranching is different than it was 100, 50, 20, even 10 years ago.”³⁸ Traditionally, beef cattle grazed on open plains until slaughter, and bulls bred with cows. Now nearly all cattle spend a significant portion of their lives on feedlots, consuming grain instead of grass,³⁹ and in vitro fertilization and embryo transfer are commercially available.⁴⁰ If USDA were to limit meat and beef terms to the flesh of cattle born, raised, and killed in “the traditional manner,” almost no meat on the market today could bear such labels. Do the Cattlemen really mean to propose a death knell for clear labels on the meat that they themselves produce?⁴¹

The approach that the Cattlemen propose would also stifle innovation that USDA otherwise supports. For example, USDA is currently funding a project to study whether pasteurizing colostrum will reduce calf mortality and the transmission of the bacteria that cause Johne’s disease (the bovine version of Crohn’s disease).⁴² Not only is the Cattlemen’s proposal in direct

³⁷ U.S. Cattlemen’s Association, *supra* note 2.

³⁸ Wyoming Beef Council, *History of Wyoming Cattle Ranches*, <https://www.wybeef.com/about-our-industry/history-of-wyoming-cattle-ranches> (last accessed March 15, 2018).

³⁹ T. C. Richardson and Harwood P. Hinton, “Ranching,” *Handbook of Texas Online* (Texas State Historical Society), <https://tshaonline.org/handbook/online/articles/azr02> (explaining that in 1958, most Texas cattle grazed, but by 1968, “95 percent of the cattle being fattened for the slaughter market” lived in feedlots with 1,000 cows or more); *see also* USDA Economic Research Serv., *Alternative Beef Production Systems: Issues and Implications* (Apr. 2013) at 4, *available at* <https://www.ers.usda.gov/publications/pub-details/?pubid=37474> (“Historically, cattle production for beef or dairy in the United States has been a forage-based industry” but now 80 percent of beef cattle are fed grain for “finishing” and a portion of the remaining beef comes from dairy cows).

⁴⁰ *See, e.g.*, TransOva Genetics, <http://www.transova.com/beef-breeds> (last accessed March 15, 2018).

⁴¹ It is notable that the Cattlemen do not define traditional to encompass processing methods. USDA itself noted in 2009 that the meat industry was then using non-traditional processing methods, including steam pasteurization, ultra pasteurization, modified atmosphere packaging, and high pressure processing, that had not been in existence 25 years earlier. 74 Fed. Reg. 46,951, 46,954 (Sept. 14, 2009).

⁴² USDA, “Research Project: Evaluation of Heat-Treating Bovine Colostrum on Colostrum Characteristics, Calf Health and Johne’s Disease Control in Minnesota Dairy Calves,” Project Number 5030-32000-221-05-T (2016-2018) <https://www.ars.usda.gov/research/project/?accnNo=432671>; *see also* USDA, “Research Project: Enhance Genetic Improvement of Fertility Traits in Beef Cattle through

contradiction to USDA’s own research priorities, but it would bar the use of beef terms on meat from cattle that had been born, raised, or “harvested” using techniques that USDA itself is pioneering, such as feeding calves pasteurized colostrum, which is not a “traditional manner” of raising them.⁴³

However, even accepting that USDA would wade into determinations about which cattle rearing practices are “traditional” to police meat labels — which it most certainly should not do — the meaning of “meat” remains at issue. While the Cattlemen argue that “meat” and “beef” clearly refer to “the tissue or flesh of animals that have been slaughtered for food,” the dictionary definitions they rely on to support their position paint a different picture.

According to Exhibit 1 of the Cattlemen’s petition:

- Merriam Webster’s definition of “meat” begins “1a : food; especially : solid food as distinguished from drink; b : the edible part of something as distinguished from its covering (such as a husk or shell);”⁴⁴ and
- Oxford Dictionaries include these definitions for “meat:” the “flesh of a person’s body,” and the “edible part of fruits, nuts, or eggs.”⁴⁵

Dictionary.com and the Free Dictionary, both of which the Cattlemen cite for the definition of “beef,” also include these definitions of “meat:” “the edible part of anything, as a fruit or nut”⁴⁶ and “[t]he edible part, as of a piece of fruit or a nut,” and “[n]ourishment; food.”⁴⁷

Even where the dictionary definitions talk about animal flesh, they often include no mention of slaughter. The first definition of “beef” from Merriam Webster, for example, is the “flesh of an

Genomics,” Project Number 3030-31000-018-01-S (2016-2018)
<https://www.ars.usda.gov/research/project/?accnNo=430926> (USDA-funded project that uses cattle genomes to “dissect the genetic basis of fertility and longevity traits in beef cattle”).

⁴³ Jim Quigley, *Colostrum pasteurization - Pros and cons*, Progressive Dairyman (Aug. 25, 2011), <https://www.progressivedairy.com/topics/calves-heifers/colostrum-pasteurization-pros-and-cons> (“On the dairy and calf ranch, pasteurizers *are becoming more popular* to improve quality of waste milk for calves. These units are generally large *More recently*, commercial colostrum pasteurizers were introduced to the market. These units pasteurize smaller batches of colostrum with minimal risk to the colostrum or calves consuming it.” (emphases added)).

⁴⁴ Merriam-Webster Online Dictionary, Meat, <https://www.merriam-webster.com/dictionary/meat> (last visited Apr. 14, 2018).

⁴⁵ Oxford Dictionary, Meat, <https://en.oxforddictionaries.com/definition/meat> (last visited Apr. 14, 2018).

⁴⁶ Dictionary.com, Meat <http://www.dictionary.com/browse/meat?s=t> (last visited Apr. 14, 2018).

⁴⁷ The Free Dictionary, Meat, <https://www.thefreedictionary.com/meat> (last visited Apr. 14, 2018); *see also* Online Etymology Dictionary, Meat, <https://www.etymonline.com/word/meat> (last accessed Mar. 20, 2018) (explaining that the English word “meat”/“mete” originally referred to food generally and in the Middle Ages became focused on various kinds of flesh used for food, including vegetable flesh).

adult domestic bovine (such as a steer or cow) used as food.”⁴⁸ The second definition implies slaughter (“a dressed carcass of a beef animal”), but only as subpart (b); subpart (a), which of course precedes this definition, refers to the *live* animal (“an ox, cow, or bull in a full-grown or nearly full-grown state; *especially* : a steer or cow fattened for food”).⁴⁹

Clean meat is riveting to many potential consumers precisely because it is animal meat without slaughter. Two recent consumer surveys, conducted by Oklahoma State University⁵⁰ and the Sentience Institute,⁵¹ found that nearly half of Americans support a ban on slaughterhouses. In reporting these findings, Oklahoma State University researchers stated: “Even though most Americans eat meat, they also do not like the idea of slaughterhouses.”⁵² Given that many dictionary definitions of “beef” as well as USDA’s own definition for the term⁵³ do not mention slaughter and that many Americans are interested in meat without slaughter, USDA should not mandate that traditional slaughter is an essential part of what makes beef “beef.”⁵⁴

VI. Conclusion

USDA should deny the Cattlemen’s petition for the aforementioned reasons. If USDA feels compelled to act at all, the most reasonable course would be to coordinate with FDA on formalizing the existing practice of allowing the use of compound names, consistent with GFI’s citizen petition (Attachment 4).

We appreciate the opportunity to provide this comment to USDA. If we can be helpful as you consider the issues we raise above, we would be happy to continue the discussion with you.

⁴⁸ Merriam-Webster Online Dictionary, Beef, <https://www.merriam-webster.com/dictionary/beef> (last visited Apr. 14, 2018)

⁴⁹ *Id.*; see also <https://en.oxforddictionaries.com/definition/beef> (also in Cattlemen’s Exhibit 1) (defining beef in relevant part as the “flesh of a cow, bull, or ox, used as food” or a “cow, bull, or ox fattened for its meat”).

⁵⁰ Bailey Norwood and Susan Murray, Oklahoma State University, *Food Demand Survey* (Jan. 18, 2018), <http://agecon.okstate.edu/files/January%202018.pdf>.

⁵¹ Jacy Reese, Sentience Institute, *Survey of US Attitudes Towards Animal Farming and Animal-Free Food October 2017*, <https://www.sentienceinstitute.org/animal-farming-attitudes-survey-2017>.

⁵² Norwood & Murray at 6.

⁵³ 7 C.F.R. § 1260.119 (“Beef means flesh of cattle”).

⁵⁴ Similarly, USDA has observed that “a number of studies have demonstrated that consumers are willing to pay premiums for beef products produced without antibiotics, artificial hormones, or other chemicals.” USDA Economic Research Serv., *Alternative Beef Production Systems: Issues and Implications* (Apr. 2013) at 15. These substances are expected to be absent from commercially available clean meat.

Sincerely,

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Todd Boyman
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Jaime Athos, Ph.D.
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List of Attachments

Attachment 1: Good Food Institute, [Plant-Based Meat Mind Map](#)

Attachment 2: Good Food Institute, [Clean Meat Mind Map](#)

Attachment 3: 2016 correspondence between USDA and FDA about labeling plant-based bacon

Attachment 4: Good Food Institute, [Petition to FDA](#)