



December 29, 2003

U.S. Food and Drug Administration

Dockets Management Branch

5630 Fishers Lane, Room 1061

Rockville, MD 20852

FOUR PAGES TOTAL

VIA FAX: 301-827-6870 and U.S. Mail

RE: Docket No. 98P-0151/CP1; Petition to Ban Downed Animal Slaughter

Dear Madam or Sir:

In light of the recent discovery of mad cow disease (Bovine Spongiform Encephalopathy or BSE) in the United States, and especially in the absence of appropriate action by the United States Department of Agriculture (USDA), I am writing to urge the United States Food and Drug Administration (FDA) to immediately grant petition 98P-0151/CP1 to prevent downed animals, animals too sick to stand, from entering the human food supply.

The downed animal petition was filed with both the FDA and the USDA in March 1998. In March 1999, the USDA formally denied the petition, and asserted that it is appropriate for diseased animals to be used for human food. Farm Sanctuary has filed a lawsuit against USDA, and we remain involved in litigation on this matter. On December 26, 2003, the *New York Times* printed a story in which Dr. Ron DeHaven, the USDA's chief veterinarian, states that USDA's mad cow inspection process is "a surveillance system, not a food safety test". This USDA statement is of grave concern.

The USDA has done a grossly inadequate job of ensuring food safety. The USDA inspection service cannot adequately detect food safety threats, and even when it identifies animals with disease, it allows them to be used for food. Records obtained by Farm Sanctuary through the Freedom of Information Act show that USDA knowingly approved animals with hepatitis, gangrene, pneumonia, malignant lymphoma, and other ailments for human food.

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Food safety is critically important to American consumers, and accordingly, we urge the FDA to take immediate action to protect consumers by granting petition 98P-0151/CP1. Using downed animals in the food supply threatens human health in various ways. Downed animal meat harbors an increased risk of bacterial contamination and disease, including mad cow disease.

American consumers don't want to eat meat from downed livestock. The FDA has received tens of thousands of comments, including some from major livestock industry organizations, urging that it grant the downed animal petition. In September, 2003 Zogby conducted a poll and found that 81% of U.S. citizens were concerned that slaughtering downed animals for food posed a human health threat.

Dr. Lester Friedlander, a USDA veterinary inspector from 1985 to 1995, is among those urging FDA to grant Farm Sanctuary's petition. In a 1998 letter, he wrote:

"I have literally seen thousands of non-ambulatory cattle (downers), being slaughtered, which in my professional judgement should have been condemned. Due to the very liberal policy on non-ambulatory animals and the ineffective inspection process, they are generally passed to be slaughtered. USDA-FSIS does not use any scientific or microbiological testing to determine their true condition... As somebody who has trained close to one hundred (100) veterinarians in the USDA and received the veterinary trainer of the year award, I can tell you that CNS animals [i.e. animals with central nervous system disease] are not carefully examined nor prevented from entering the food supply. In the absence of a clear policy prohibiting the use of downer animals for human food, I am concerned that CNS and other potentially transmissible diseases will be passed on to human consumers."

Surveillance efforts in the United States have not adequately considered that downed cattle may harbor a variant of BSE. Farm Sanctuary investigators have travelled throughout the U.S. documenting the presence of downed animals at stockyards and slaughterhouses. These are severely incapacitated animals are routinely dragged onto trucks in order to be slaughtered and used for human food. We are concerned that downed cattle may harbor a variant of BSE, especially in light of evidence that feeding downed cattle to minks has been linked to outbreaks of transmissible mink encephalopathy (TME) in the United States.

Since 1947, 11 U.S. mink farms are known to have been affected by TME. Nine of these were in Wisconsin, one was in Minnesota, and one was in Idaho. It is likely that these outbreaks were caused by contaminated feed, given that farms affected by the disease commonly shared the same feed source. Information was not available about feed ingredients for six of the eleven affected farms, but on the other five, a common ingredient was found: meat from downed cattle.

The last TME outbreak recorded in the U.S. occurred in Stetsonville, WI in 1985. This incident was subsequently studied by Dr. Richard Marsh of the Department of Animal Health and Biomedical Sciences at the University of Wisconsin, Madison. His research was published (*Dev Biol Stand. Basel, Karger, 1993, vol 80, pp 111-118*) and provides compelling evidence that downed cattle in the U.S. may harbor a variant of BSE.

Marsh inoculated two cattle with brain material from TME infected mink from the Stetsonville, WI farm. Within two years, both cattle became "downed". Then, Marsh fed brain tissue from these affected cattle to minks, and found that minks exhibited a TME-like disease within seven months. Referring to this, Marsh wrote, "These findings are compatible with the Stetsonville incident of TME being caused by feeding mink infected cattle tissue and they **suggest the presence of an unrecognized BSE-like disease in the United States** (emphasis added)." Unfortunately, Marsh was not funded to conduct further research in this area.

It should be noted that minks have historically served as "sentinel animals" for harmful substances in the environment. For example, they were the first species to show the deleterious effects of PCBs on reproduction. It is possible that these "sentinel animals" are telling us something about downed cows.

Marsh's research is bolstered by evidence that sheep infected with scrapie (the related brain disease in sheep) in the U.S. cause cattle to become "downed" instead of "mad". Many scientists believe BSE was spread in Britain when sheep infected with scrapie were fed to cows. In the U.S., scientists wondered whether scrapie from U.S. sheep would also cause Mad Cow Disease, so they inoculated cattle with scrapie from U.S. sheep. The inoculated cattle became "downed," not "mad". R.C. Cutlip et al reported, "Thus, undiagnosed scrapie infection could contribute to the 'downer-cow' syndrome [in the U.S.]..." (*Journal of Infectious Diseases* 1994; 169:814-20).

Approximately two hundred thousands of downed cattle are slaughtered for human food in the U.S. every year. These animals are not examined for BSE, and the reason for their nonambulatory state is usually unknown. We are concerned that some of these animals may be infected with a BSE-like disease.

Downed animals represent an extremely small percentage of all livestock slaughtered, and banning their use would provide no undue economic hardship. Even if there is some short term economic hardship, this consideration must not outweigh the threat to human health or longer term economic consequences.

Tragically, short term economic considerations have tended to hinder government and industry action necessary to protect consumers. A January 20, 1997 article from *Feedstuffs* stated:

A report of the European Parliament's inquiry into bovine spongiform encephalopathy (BSE) was released in Brussels, Belgium, last week, placing blame for the management of the cattle disease squarely on the British government; the European Union Agricultural Council, made up of member states' farm ministers, and the European Commission. The report from the inquiry charged that British and European officials gave "priority to the interests of market management, as opposed to the potential human health risks existing in the light of the numerous scientific uncertainties concerning the possible effects of BSE on humans. There is a considerable body of material confirming this attitude." Furthermore, the inquiry committee said, "The present committee considers that the commission has displayed negligence with respect to the adoption and monitoring of human and animal health protection measures."

We are distressed that economic priorities have tended to take precedence over the health of animals and consumers. We are also concerned that, like in Europe, a powerful short term economic incentive exists to ignore the evidence and to maintain the status quo.

We urge the FDA to reexamine this issue, to act in the interest of American consumers, and to immediately grant petition 98P-0151/CP1 to ban downed animal slaughter. Thank you for your time and thoughtful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Gene Bauston". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gene Bauston, President  
Farm Sanctuary