



# Beef Business

► A look at current issues affecting the cattle industry. Compiled by **Shelby Mettlen**, assistant editor

## Beef Cattle Institute provides online resource for upcoming VFD changes

Striving to provide the most up-to-date information on upcoming changes in regulations related to the veterinary feed directive (VFD), the Beef Cattle Institute (BCI) at Kansas State University (K-State) is offering a new online resource — for free.

The BCI partnered with animal health experts Mike Apley of the K-State College of Veterinary Medicine and Brian Lubbers of the K-State Veterinary Diagnostic Laboratory, to create an online informational module that answers frequently asked questions regarding the VFD issued by the USDA. Changes to the regulations as a result of the directive are scheduled to take place Jan. 1, 2017.

According to Lubbers, K-State has been heavily involved with face-to-face meetings regarding the VFD, but the online modules will give producers and veterinarians an opportunity to gain foundational knowledge on their own time.

“The biggest thing for producers and veterinarians is really the planning,” he said. “We don’t want people to get to January 1 and be surprised by what they can and cannot do. I encourage producers to start the discussion with their veterinarians on what is impacted, how it may change, as well as the process.”

The free informational modules for beef producers and veterinarians can be found at [www.beefcattleinstitute.org](http://www.beefcattleinstitute.org).

Source: K-State University.

## Texas Supreme Court rules in favor of ranch in groundwater rights case

The Texas Supreme Court recently ruled in favor of Coyote Lake Ranch LLC in its case against The City of Lubbock. The Supreme Court ruled the accommodation doctrine that applies to mineral estates shall also apply to surface estates.

“The Supreme Court’s decision is a major victory for landowners across Texas,” said Texas and Southwestern Cattle Raisers Association (TSCRA) president Richard Thorpe. “This ruling clarifies surface owners have protections against those who may own an interest in not only the mineral estate, but also the surface estate.”

In 1953, The City of Lubbock bought the rights to Coyote Lake Ranch’s groundwater.

In 2012, Coyote Lake Ranch took issue with The City of Lubbock’s plan to drill an additional 20 groundwater test wells in the middle of the ranch, followed by 60 additional groundwater wells across the ranch. The owners of the ranch said the construction of these wells would have impeded the travel of their irrigation systems and destroyed grazing for their cattle. The ranch argued the accommodation doctrine, used in the oil and gas industry, should also apply in this case.

Coyote Lake Ranch filed their case with the Bailey County District Court where a temporary injunction against the City halted construction of the groundwater wells in November 2013. In response to the injunction, the City filed an appeal in the Amarillo Court of Appeals and the court ruled in favor of the City in June 2014.

Coyote Lake Ranch eventually petitioned the Texas Supreme Court to hear their case. TSCRA filed an *amicus* brief in November 2014 in support of Coyote Lake Ranch, urging the Supreme Court to hear the case. The Supreme Court heard oral arguments on the case on Oct. 14, 2015, and the court ruled in favor of the ranch in May 2016. The decision states the city has the responsibility to use only the amount of surface “reasonably necessary” to its operations and only do this with “due regard” for the rights of the surface owner.

— Source: TSCRA.

## April livestock slaughter trends

According to a report released May 19, 2016, by the USDA National Agricultural Statistics Service (NASS), Agricultural Statistics Board, April 2016 boasted record-low veal, lamb and mutton production. Commercial red meat production for the United States totaled 3.98 billion pounds (lb.) in April, down 1% from the 4.02 billion lb. produced in April 2015.

Beef production, at 1.96 billion lb., was 2% above the previous year. Cattle slaughter totaled 2.41 million head, up 1% from April 2015. The average live weight was up 10 lb. from the previous year, at 1,348 lb.

Veal production totaled 6.0 million lb., 10% below April a year ago. Calf slaughter totaled 34,800 head, down 2% from April 2015. The average live weight was down 25 lb. from last year, at 293 lb.

Pork production totaled 2.00 billion lb., down 3% from the previous year. Hog slaughter totaled 9.37 million head, down 3% from April 2015. The average live weight was up 1 lb. from the previous year, at 285 lb.

Lamb and mutton production, at 12.8 million lb., was down 6% from April 2015. Sheep slaughter totaled 189,000 head, 5% below last year. The average live weight was 135 lb., down 2 lb. from April a year ago.

January to April 2016 commercial red meat production was 16.2 billion lb., up 2% from 2015. Accumulated beef production was up 4% from last year, veal was down 6%, pork was up slightly from last year, and lamb and mutton production was down 1%.

Source: USDA.

## Supreme Court upholds landowners’ rights challenging WOTUS jurisdiction

On May 31, the Supreme Court in *U.S. Army Corps of Engineers v. Hawkes Co. Inc.*, set a precedent that landowners may challenge the Corps’ jurisdictional determination specifying that a piece of property contains a “water of the United States” (WOTUS). The National Cattlemen’s Beef Association (NCBA) filed an *amicus* brief in support of Hawkes. NCBA President Tracy Brunner said this is a major victory for landowners across the country.

“This case highlights the issues landowners and land-use stakeholders have with the *Clean Water Act*,” said Brunner. “Neither of the options provided to landowners are realistic under the current regulatory environment. Applying for a 404 permit is expensive, exhaustive and time-consuming. Gambling on EPA enforcement and risking civil and criminal penalties is foolish. This case strikes a balance that at least gives us some measure of regulatory certainty in the notoriously unclear *Clean Water Act*.”

The Hawkes case involved three companies engaged in mining peat in Minnesota. Due to the difficulty inherent in determining the need for a 404 Dredge and Fill Permit, the Army Corps allows property owners to obtain a standalone jurisdictional determination if a particular piece of property contains a WOTUS and therefore requires a 404 permit before using the land. Upon receiving an approved jurisdictional determination that their land did contain a

WOTUS, the companies exhausted the administrative remedies available and then filed suit in Federal District Court challenging the Corps' jurisdictional determination. The government argued that such a jurisdictional determination was not final agency action and that landowners would have to either discharge without a permit and then challenge EPA enforcement or apply for a permit and challenge the outcome.

In his concurrence, Justice Kennedy expressed the Court's continued concern with the *Clean Water Act*, saying the Act "continues to raise troubling questions regarding the Government's power to cast doubt on the full use and enjoyment of private property throughout the nation."

*Source: NCBA.*

### **NFU defends family farmers and ranchers in a statement to the Senate Ag Committee**

On May 26, the Senate Agriculture Committee convened a hearing to discuss opportunities and challenges in the livestock and poultry sectors, and National Farmers Union (NFU) encouraged senators on the panel to hear from cow-calf producers as they grapple with the challenges facing the industry. In an independent statement

submitted to the hearing record, NFU defended market relief efforts given the low prices and consolidated livestock market facing family farmers and ranchers.

"There are many challenges facing agriculture today. The livestock sector, like much of agriculture, is under economic stress with no near end in sight," said NFU President Roger Johnson. "I applaud the committee for exploring these challenges at today's hearing, and I urge the members of this panel to take a comprehensive look at the livestock industry as they move forward with considerations of the farm economy."

In 2015, producers faced a dramatic decrease in beef prices, despite predictions of several years of higher-than-average prices. Forecasts by the USDA point to a prolonged period of depressed prices, and projected beef production remains high for 2017 — a scenario, NFU explains, that will be detrimental for beef producers to recover financial losses that ensued from the recent price decline.

Additionally, a sharp decline in the number of family farmers and ranchers during the past decade due to a heavily concentrated cattle market makes the scenario more troubling for independent producers competing against the packers.

"The marketplace is tipped

disproportionately against the family producer. Currently, four packers account for nearly 70% of the value of all U.S. livestock purchased for slaughter. Without protection from unfair, anti-competitive practices, independent producers face difficulty succeeding," Johnson explained in his statement to the committee.

NFU urges ongoing support for mandatory price-reporting rules that provide market transparency for producers large and small, as well as the *Packers and Stockyards Act*, which ensures integrity and competitive fairness in the livestock market.

*Source: NFU.*

### **Ag Secretary Vilsack to make first official visit to Puerto Rico**

Ag Secretary Tom Vilsack made his first official visit to Puerto Rico where he was to highlight the USDA's ongoing commitment to addressing food security and rural opportunity in the Commonwealth. While in Puerto Rico, Vilsack was to meet with various officials from the Commonwealth, visit a National Forest research station, engage local farmers and ranchers, convene a group of financial leaders focused on finding opportunities for rural investment, and make several important

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announcements to address food security and rural development.

Vilsack is the latest senior Obama administration official to travel to Puerto Rico, following visits from Secretary of the Interior Sally Jewell, Secretary of Health and Human Services Sylvia Burwell, Secretary of the Treasury Jack Lew, Secretary of Transportation Anthony Foxx, Secretary of Veterans Affairs Robert McDonald, Secretary of Housing and Urban Development Julian Castro and Secretary of Education John King earlier this year to urge action by Congress to provide Puerto Rico with the tools it needs to address the crisis, restructure its debt, support reform and enable growth.

While in Puerto Rico, Vilsack was to meet with staff from seven USDA agencies working in the Commonwealth: Animal and Plant Health Inspection Service (APHIS); Agricultural Research Service (ARS); Farm Service Agency (FSA); Food and Nutrition Service (FNS); U.S. Forest Service; Natural Resources Conservation Service (NRCS); and USDA Rural Development. Since 2009, USDA has invested more than \$20 billion in Puerto

Rico across various programs, including nutrition, infrastructure, housing, farming and ranching, conservation and forestry, and research.

On June 1, Vilsack was to meet with Governor Alejandro García Padilla, Senate Majority Leader Eduardo Bhatia, and Speaker of the House of Representatives Jaime R. Perelló Borrás. He was scheduled to tour the U.S. Forest Service Sabana Field Research Station and El Yunque National Forest to highlight USDA's key research initiatives in the Caribbean Climate Sub Hub. USDA has established a network of seven regional Climate Hubs and three Sub Hubs to support applied research and provide information to farmers, ranchers, advisors, and managers to inform climate-related decision-making and region-specific adaptation strategies.

On June 2, Vilsack was to highlight Puerto Rico's growth potential and announce a series of additional federal investments in Puerto Rico's future. The day was to begin with a meeting of farmers, ranchers, producers and agriculture-related businesspeople to gauge the needs and opportunities of Puerto Rico's agricultural sector. Vilsack was then to

convene a meeting with a dozen investors, financial leaders, economists and entrepreneurs to discuss rural economic opportunity and the potential to leverage public and private resources in a more integrated and coordinated way in the Commonwealth to create a brighter future for its residents.

Since 2006, Puerto Rico and the 3.5 million American citizens who call the Commonwealth home have endured a decade-long recession and are facing a serious crisis that requires immediate Congressional action. Fiscal conditions have contributed to record numbers of citizens leaving Puerto Rico for the mainland. The Obama administration has worked extensively with Puerto Rican officials to find solutions to the Commonwealth's fiscal crisis. However, only Congress has the authority to provide Puerto Rico with the necessary tools to address the crisis and to lay the foundation for the Commonwealth's recovery.

*Source: USDA.*

