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Ranch Group Files New LawsUIT Against USDA's Operation of Beef Checkoff Program

Billings, Mont. – On Friday, R-CALF USA, through attorneys at Public Justice, [filed a new lawsuit](#) over amendments the U.S. Department of Agriculture made to the operation of the federal Beef Checkoff program in the U.S. District Court for the District of Columbia. The new lawsuit builds on R-CALF USA's Montana litigation, which challenged the constitutionality of the use of Checkoff funds by private state beef councils to fund speech that is harmful to independent, domestic producers. That litigation is now on appeal to the Ninth Circuit, where R-CALF USA appeals the Montana District Court's ruling that the U.S. Department of Agriculture had corrected its 35-year violation of the U.S. Constitution by entering memorandums of understanding (MOUs) with the 15 private state beef councils subject to R-CALF USA's lawsuit.

In its Ninth Circuit appeal, R-CALF USA argues that the government's MOUs that purport to convert the 15 private state beef councils' unconstitutional private speech into government speech not subject to First Amendment protections are, themselves, inadequate to cure the constitutional violations in the federal Beef Checkoff program.

The new lawsuit goes further in its challenge to the MOUs, asserting that the government unlawfully amended the legal and regulatory framework within which the state beef councils have been operating in without first initiating a public rulemaking process that affords the public with notice of its proposed amendments and provides the public with an opportunity to provide comments before the amendments are implemented.

At the heart of the group's initial lawsuit now under appeal is the question of whether the USDA can compel American ranchers to subsidize the private speech of private state beef councils through the national beef checkoff program. When the federal district court signaled to USDA that its beef checkoff program was likely violating the Constitution, the government quickly began entering MOU's with the 15 private state beef councils, requiring those councils to obtain preapproval from USDA for virtually every word of their promotional activities before the councils can speak.

The lower federal court then determined that the new MOUs rectified the constitutional violation perpetrated by the USDA for decades while the agency was forcing American ranchers to subsidize the private speech of private state beef councils.

However, R-CALF USA, represented by Public Justice, contends that, in entering into the MOUs, USDA violated legal procedure mandated by the Administrative Procedure Act by

failing to allow for public comment. This violation has denied R-CALF USA's members—and ranchers everywhere—their right to weigh in on a federal program they are forced to fund.

Thus, [the new lawsuit filed Friday](#) asks the federal district court in Washington, D.C. to declare unlawful the MOUs that the USDA entered into in its effort to avoid a court order providing R-CALF USA the complete relief it sought in its initial lawsuit now under appeal at the Ninth Circuit Court of Appeals.

“The lawsuit filed by R-CALF USA Friday challenges an illegal practice by USDA meant to paper over an unconstitutional one,” said Kellan Smith, an Associate Attorney with the Public Justice Food Project. “We will prove that USDA entered into these MOU’s illegally by skipping a true public input process, which is essential to government transparency. From there, we will go on to stop the Beef Checkoff program from using independent rancher money to fund speech that props up multinational beef corporations. It’s been a long fight for American ranchers who just want the level playing field they’re entitled to by law, and that fight continues with this new suit.”

R-CALF USA CEO Bill Bullard said the lawsuit was filed to prevent the USDA from engaging in unlawful government overreach. “As a federal agency, the USDA is authorized only to carry out federal statutes, and if conditions change and the implementing regulations for the statutes need to be changed, then the agency is obligated to involve the people and entities it regulates in a transparent process. This is an example where the USDA, instead, is attempting to run roughshod over those it regulates,” Bullard said.

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R-CALF USA (Ranchers-Cattlemen Action Legal Fund United Stockgrowers of America) is the largest producer-only lobbying and trade association representing U.S. cattle producers. It is a national, nonprofit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. Visit www.r-calfusa.com or, call 406-252-2516 for more information.

The Public Justice Food Project supports rural communities, farmers, workers, and allies to fight for a just, humane, sustainable, and regenerative animal agriculture system.