CSPI CENTER FOR SCIENCE IN THE PUBLIC INTEREST
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January 7, 2004

Secretary Ann Veneman
U.S. Department of Agriculture
Jamie L. Whitten Building
14th Street & Independence Avenue, S.W.
Room 200-A
Washington, D.C. 20250

Dear Secretary Veneman:

On December 30, 2003, you announced several new safeguards to improve systems to protect against Bovine Spongiform Encephalophy (BSE) in the United States. While these measures represent a positive step in protecting the American food supply, USDA must be even more aggressive in protecting American consumers, as well as the beef industry. While CSPI will file formal recommendations on areas that need reform, there is one issue that requires your immediate attention.

USDA's lack of mandatory recall authority is an urgent issue that needs to be addressed. In March, 2003, you said that USDA was "working under a Meat Inspection Act that pre-dates the Model T." You said that USDA would work with Congress to modernize food safety authorities.[1]

The handling of the recall of meat from the cow infected with BSE clearly illustrates this need for modernization. USDA's voluntary recall system bars the agency from providing adequate information to consumers, information that is critically needed to assure that as much contaminated meat as possible is removed from the food chain. This is because USDA has erroneously interpreted distribution lists as "proprietary information" of the company. Further, USDA will only share distribution lists from a firm that is recalling meat or poultry products with states that agree ***not to publicly identify the locations where potentially tainted meat has been distributed and sold***.[2] This Orwellian policy means that states cannot give consumers the very information they need to determine if they bought recalled meat.

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[1] Remarks of Secretary of Agriculture Ann M. Veneman, Food Safety Summit and Expo, Wednesday, March 19, 2003, available at www.usda.gov/news/releases/2003/03/0092.htm.

[2] 67 Fed. Reg. 20009 (Apr. 24, 2002).

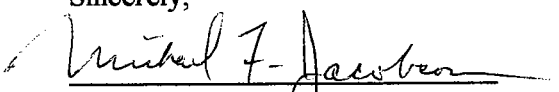
On January 5, 2004, several California papers reported that meat and soup bones linked to the mad cow" in Washington State had been sold in several grocery stores and chains. Although one market announced the voluntary recall to their customers, state health officials complained that they were barred from publicly identifying restaurants in Santa Clara County that also purchased beef products from the same source.

The issue of the public release of recall information also surfaced during the recall of nearly 50 tons of *E. coli* 0157:H7-tainted beef manufactured by a ConAgra establishment during the summer of 2002. According to a Denver Post article, ConAgra rebuffed for nearly three months requests by California Department of Health Services officials to disclose where it had distributed nearly 50 tons of recalled beef.[3]

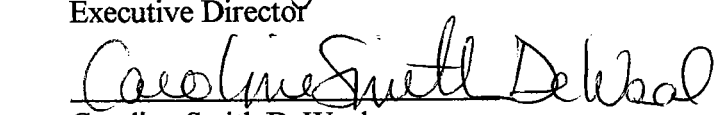
Recalls are by their nature a public process and distribution information is crucial to assure that tainted product is withdrawn from the market place. Consumers with this information can more readily identify the recalled product before it is consumed. We urge USDA to work with Congress to implement a mandatory recall system to assure that consumers, public health officials and others have full public access to recall information.

You have already stated the need to modernize food safety authorities, including mandatory notification to USDA when a company has reason to believe that meat or poultry has been adulterated or misbranded; authority to impose civil penalties; and cease-and-desist orders. We support this call. Now – more than ever – we believe that you and President Bush should ask Congress for these essential authorities along with mandatory recall authority. When the safety of the food supply is at risk, it is critical that USDA have the tools to recall and remove contaminated product from supermarket shelves, the power to give consumers the information they need to know if they have purchased the recalled products, and the ability to penalize companies that fail to comply with your requests.

Sincerely,



Michael F. Jacobson, Ph.D.
Executive Director



Caroline Smith DeWaal
Director, Food Safety Program

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[3] David Migoya, "ConAgra Stymied Us, California Says," Denver Post (Dec. 31, 2002), found at http://www.mindfully.org/Food/CoinAgra-Stymied-CA31dec02.htm.