

United States Senate

WASHINGTON, DC 20510

June 15, 2017

The Honorable John Hoeven
Chairman
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
129 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jeff Merkley
Ranking Member
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Hoeven and Ranking Member Merkley:

At this time of intense budget pressure, we are writing to thank the Committee for its outstanding past support for enforcement of key animal welfare laws by the U.S. Department of Agriculture. We also urge you to sustain this effort in Fiscal Year 2018. Your leadership is making a difference, helping to protect the welfare of millions of animals across the country and upholding the values of the American public.

As you know, better enforcement also directly benefits American citizens by 1) preventing the sale of unhealthy pets from unlawful commercial breeders, commonly referred to as "puppy mills"; 2) improving laboratory conditions that may otherwise impair the scientific integrity of animal-based research; 3) reducing risks of disease transmission from, and dangerous encounters with, wild animals in or during public exhibition; 4) minimizing injury, loss, and death of pets on commercial airline flights due to mishandling and exposure to adverse environmental conditions; 5) decreasing food safety risks to consumers from sick animals who can transmit illness, and injuries to slaughterhouse workers from suffering and struggling animals; and 6) dismantling orchestrated dogfights and cockfights that often involve illegal gambling, drug trafficking, human violence, and can contribute to the spread of costly illnesses such as bird flu. In order to continue the important work made possible by the Committee's prior support, we request the following for FY18, to essentially sustain level funding in these key accounts:

Animal and Plant Health Inspection Service (APHIS) / Animal Welfare Act (AWA) Enforcement

We request that you support funding of \$28,810,000 for AWA enforcement under APHIS. We commend the Committee for responding in recent years to the urgent need for increased funding for the Animal Care division. The funding has helped improve inspections by Animal Care of approximately 10,731 sites, including commercial breeding facilities, laboratories, zoos, circuses, and airlines, to ensure compliance with AWA standards.

In May 2010, USDA's Office of Inspector General released a report criticizing the agency's history of lax oversight of dog dealers, finding that inhumane treatment and horrible conditions often failed to be properly documented and yielded little to no enforcement actions. In December 2014, the OIG released an audit that urged the agency to levy higher penalties against research facilities that violate the AWA, noting that the low penalties being given are just seen as a cost of doing business. While there have been some improvements, unfortunately, many of these problems persist. Most importantly, USDA still does not provide any oversight of some large-scale commercial dog breeders that sell puppies to the public via the Internet and other means, despite receiving tips identifying these scofflaw operations that are not yet licensed.

The agency finalized its “retail pet store rule” in 2013, requiring large-scale breeding operations that sell animals sight unseen to the public to be licensed and inspected under the AWA, but there has been little follow-through and, predictably, animals and consumers continue to suffer terribly as a result. USDA is also responsible for implementing a 2008 law and corresponding 2014 regulations to end imports from foreign puppy mills where puppies are mass produced under inhumane conditions and forced to endure harsh long-distance transport.

Animal Care currently maintains 114 inspectors (with 7 vacancies) who perform and oversee animal welfare compliance inspections, compared to 64 inspectors at the end of the 1990s. Animal Care also maintains cadres of species specialists (4 with 1 vacancy) who support inspectors with complex regulatory compliance issues and compliance specialists (7) who support the pre-licensing process and other aspects of compliance assurance. An appropriation at the requested level would help the agency better address the concerns identified by the OIG, especially the need for enforcement of online puppy sales, and provide adequate oversight of the many licensed/registered facilities, as well as the ARS facilities discussed below.

APHIS / Horse Protection Act (HPA) Enforcement

We request that you support funding of \$705,000 for strengthened enforcement of the Horse Protection Act. Congress enacted the HPA in 1970 to make illegal the abusive practice of “soring,” in which unscrupulous trainers use a variety of methods to inflict pain on sensitive areas of Tennessee Walking Horses’ hooves and legs to create an artificially exaggerated high-stepping gait and gain unfair competitive advantage at horse shows. For example, caustic chemicals – such as mustard oil, diesel fuel, and kerosene – are painted on the lower front legs of a horse, then the legs are wrapped for days in plastic wrap and tight bandages to “cook” the chemicals deep into the horse’s flesh, and then heavy chains are attached to strike against the horse’s sore legs. Though soring has been illegal for almost 50 years, the well-intentioned but seriously understaffed APHIS inspection program has been unable to rein in this cruel practice, particularly given the inherent conflicts of interest in the industry self-policing system established to supplement federal enforcement.

A report released in October 2010 by USDA’s Office of Inspector General documents significant problems with the industry self-monitoring system on which the APHIS inspection program currently relies, and calls for increased funding to enable the agency to more adequately oversee the law. Several horse show industry groups, animal protection groups, the AVMA and the key organization of equine veterinarians have also called for funding increases to enable the USDA to do a better job enforcing this law. To meet the goal of the HPA, Animal Care inspectors must be present at more shows. Exhibitors who sore their horses go to great lengths to avoid detection – even fleeing shows when USDA inspectors arrive. With the current level of funding, Animal Care has been able to attend less than 30% of the more than 300 Tennessee Walking Horse shows held annually.

We greatly appreciated the enactment of a modest increase for Horse Protection Act enforcement in FY12 (bringing the budget for this to \$696,000), the first time in decades that the program received more than \$500,000. An appropriation at the requested level will help ensure that this program doesn’t lose ground but instead builds on that crucial first step in addressing the need for additional inspectors, training, security – for threats of violence against inspectors – and advanced detection equipment.

We urge you to refrain from including any bill or report language that could in any way restrict or deter USDA from vigorous enforcement of the Horse Protection Act, including interfering with USDA’s continued use of current inspection techniques that are widely recognized as legitimate by veterinarians, or granting individuals associated with HPA violations a larger voice in determining inspection protocols.

We appreciate that the FY17 omnibus did not include any such language. We further urge you to call on USDA to publish the rule that received more than 100,000 public comments in support, including letters signed by 42 Senators and 182 Representatives, as it was finalized and displayed in advance public notice in the Federal Register on January 19, 2017 (https://www.aphis.usda.gov/newsroom/federal_register/hpa-rule.pdf), to strengthen the HPA regulations that have undermined enforcement of this law for decades.

APHIS / Online Access to HPA and AWA Records

We request language directing APHIS to promptly restore comprehensive online, searchable access to all inspection reports, annual reports, and other documents regarding enforcement of the HPA and the AWA. We believe strongly that promoting transparency enhances animal welfare enforcement, and APHIS went against this principle by abruptly removing from its website thousands of pages of these essential records and its searchable database, developed at taxpayer expense to allow analysis and comparison of data by the agency and the public. While some of the records have now been restored, those that are posted are no longer readily searchable, and most of the records are still missing. We should be increasing government transparency, not diminishing it and keeping violations of these key animal welfare laws from public view. The taxpaying public that finances USDA enforcement should have ready access to the compliance records of regulated entities. **We appreciate that the report accompanying the FY17 omnibus directed APHIS to post some of these documents online.**

Public access to this information can guide consumer decision-making and plays an important role in deterring regulated entities from violating the law. It underpins state and local laws meant to protect animals and consumers, such as the laws in seven states prohibiting sale of dogs from breeding operations with a history of serious AWA violations. It is also in the interest of responsible industry stakeholders. As noted by Speaking of Research, a pro-animal research organization opposing the USDA purge, “[w]hen information is hidden, particularly where it was once available...the public wonders what is being hidden and why, and researchers must devote even more resources to combatting the public perception that they are not transparent.”

Posting these records is akin to police departments posting arrest reports, food safety agencies posting code violations, and professional licensing boards posting alleged violations of professional misconduct. In addition, existing APHIS processes already guarantee a right to review and challenge inspection reports before they are posted online, but not to keep verified citations under wraps.

As such, we request inclusion of the following bill language: “*Provided further*, That the Animal and Plant Health Inspection Service shall, consistent with existing law, promptly restore records previously removed and resume posting on the USDA website inspection reports, annual reports, and other documents related to enforcement of the Horse Protection Act and the Animal Welfare Act, in an online searchable database that allows analysis and comparison of data. If APHIS does not restore all such documents previously removed and resume their posting or redacts any such document, APHIS shall provide a written report and in-person briefing to the House and Senate Authorizing and Appropriations Committees explaining the reasons for failing to restore all records or redacting any such records.”

Agricultural Research Service / Animal Welfare for Farm Animals Used in Agricultural Research

We request language to ensure that federal dollars are not used for agricultural research without conforming to Animal Welfare Act standards. A 2015 investigation by the New York Times revealed a lack of oversight regarding animal welfare, compliance with reporting and documentation

requirements, and transparency at USDA Agricultural Research Service's U.S. Meat Animal Research Center (USMARC). We appreciate that the Committee took these concerns seriously and commend the Committee for its ongoing oversight. For FY16, \$400,000 was allocated to APHIS to conduct inspections at each ARS facility using animals in research, and 5 percent of the ARS budget was made contingent on ARS updating its animal care policies and requiring that all ARS facilities at which animal research is conducted have a fully functioning Institutional Animal Care and Use Committee to ensure compliance with standards and principles of scientific integrity equivalent to the Animal Welfare Act. For FY17, an additional \$400,000 was allocated to APHIS to strengthen this oversight. We request a continuation in FY18 of this funding (included in the AWA request above for \$28,810,000), as well as a renewed requirement for a fully functioning IACUC at each ARS facility where animal research is conducted, along with the following bill language: "*Provided further*, That the Animal and Plant Health Inspection Service and Agricultural Research Service shall work together to ensure an effective animal welfare inspection program for ARS facilities and ensure that these facilities are in full compliance with the Animal Welfare Act."

APHIS / Investigative and Enforcement Services

We request that you support funding of \$16,410,000 for APHIS Investigative and Enforcement Services (IES). We appreciate the Committee's consistent support for this division. IES handles many important responsibilities, including the investigation of alleged violations of federal animal welfare laws and the initiation of appropriate enforcement actions. The volume of animal welfare cases is rising significantly.

An appropriation at the requested level would enable the agency to keep pace with the additional enforcement workload.

Food Safety and Inspection Service (FSIS) / Humane Methods of Slaughter Act (HMSA) Enforcement

We request language to ensure strengthened HMSA enforcement. We appreciate the Committee's inclusion of language in the FY17 committee report regarding humane slaughter. USDA oversight of humane handling rules for animals at slaughter facilities is vitally important not only for animal welfare but also for food safety. Effective day-to-day enforcement can prevent abuses like those previously documented in undercover investigations, and reduce the chance of associated food safety risks and costly recalls of meat and egg products. We therefore urge inclusion of language directing FSIS to ensure that inspectors hired with funding previously provided specifically for Humane Methods of Slaughter Act enforcement focus their attention on overseeing compliance with humane handling rules for live animals as they arrive and are offloaded and handled in pens, chutes, and stunning areas, and that all inspectors receive robust national training in humane handling and inspection techniques. The Committee requests that the agency, given past GAO and OIG findings, develop an annual program evaluation for its humane handling inspections program that includes document review, field staff surveys, and monitoring to assess the degree of consistency and objectivity of implementation of the HMSA by all levels of inspection staff.

Office of Inspector General / Animal Fighting Enforcement

We request \$98,208,000 for the Office of Inspector General (OIG) to maintain staff, ensure effectiveness, and allow investigations in various areas, including enforcement of animal fighting

laws. We appreciate the Committee's inclusion of funding and language in recent years for USDA's OIG to focus on animal fighting cases. Congress first prohibited most interstate and foreign commerce of animals for fighting in 1976, established felony penalties in 2007, and strengthened the law as part of the Farm Bills enacted in 2002, 2008, and 2013. We are pleased that USDA is taking seriously its responsibility to enforce this law. Its work with state and local agencies to address these barbaric practices, in which animals are drugged to heighten their aggression and forced to keep fighting even after they've suffered grievous injuries, is commendable.

Dogs bred and trained to fight endanger public safety, and some dogfighters steal pets to use as bait for training their dogs. In 2002-2003 cockfighting was linked to an outbreak of Exotic Newcastle Disease that cost taxpayers more than \$200 million to contain. Cockfighting has also been linked to the death of a number of people in Asia reportedly exposed to bird flu. Given the potential for further costly disease transmission, as well as the animal cruelty involved, we believe it is a sound investment for the federal government to increase its efforts to combat illegal animal fighting activity.

We also support the OIG's auditing and investigative work to improve compliance with the Animal Welfare Act, the Horse Protection Act, the Humane Methods of Slaughter Act, and downed animal rules.

National Institute of Food and Agriculture / Veterinary Medical Services Act

We request that you support \$6,500,000 for the Veterinary Medicine Loan Repayment Program (National Veterinary Medical Service Act, P.L. 108-161). We appreciate that Congress is working to address the critical maldistribution of veterinarians practicing throughout the United States. Gaining access to suitable veterinary care is a core animal welfare and animal health concern. To ensure adequate oversight of humane handling and food safety rules, to defend against bioterrorism, and address a myriad of public health issues including those associated with parasites, rabies, chronic wasting disease, and pet overpopulation, USDA must incentivize veterinarians to fill vacancies in designated veterinary shortage areas.

Too often, educational debt is a significant barrier to attracting veterinarians to practice in areas experiencing maldistribution problems. Veterinary school graduates in 2016 faced a crushing debt burden of \$143,758 on average, while the starting salary was just \$73,812 for a full-time position. For those who choose employment in federally designated underserved rural or inner-city areas or public health practice, the National Veterinary Medical Service Act authorizes the Secretary of Agriculture to repay student debt. It also authorizes financial assistance for those who provide services during federal emergency situations such as disease outbreaks. Nearly 1,200 veterinarians have applied for assistance under this program since 2010; at current funding levels, about 50 awards can be made each year. Also, we support the Veterinary Services Grant Program authorized in the 2014 Farm Bill (P.L. 113-79). USDA awarded the first twelve grants in September 2016 to help address gaps in veterinary shortage situations by preparing veterinarians for rural practice.

APHIS / Emergency Management Systems / Disaster Planning for Animals

We request that you support funding of \$969,000 for Animal Care under APHIS' Emergency Management Systems line item. Hurricanes Katrina and Rita demonstrated that many people refuse to evacuate if they are forced to leave their pets behind. The Animal Care division develops infrastructure to help prepare for and respond to animal issues in a disaster and incorporate lessons learned from previous disasters. Funds are used for staff time and resources to support the efforts of state,

county and local governments and humane organizations to plan for protection of people with animals. They also enable the agency to participate, in partnership with FEMA, in the National Response Plan without jeopardizing other Animal Care programs.

Thank you for your consideration of these requests. We will be grateful for your leadership in ensuring that funds necessary to protect both animals and people will continue to be available.

Sincerely,


Ron Wyden


John Kennedy


Susan Collins


Bernard Sanders

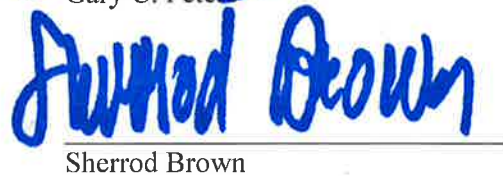

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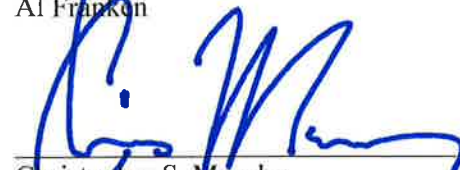

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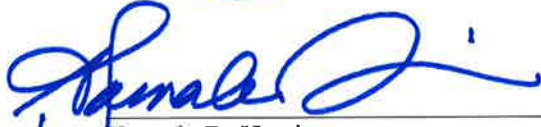

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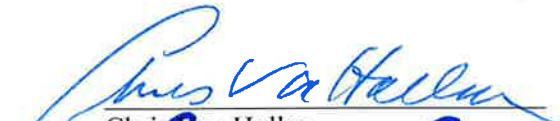

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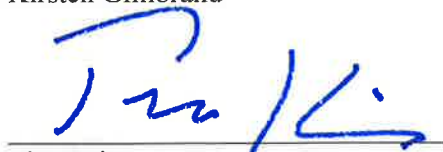

Chris Van Hollen

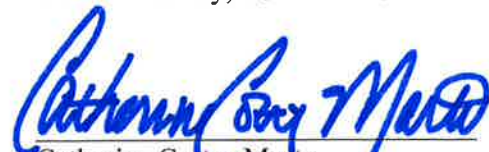

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