

Condensed Synopses from Thursday Breakout Sessions

Role of Consultation in Tribal Jurisdictions

Janie Hipp, Senior Adviser to Secretary Vilsack for Tribal relations, moderated two sessions attended by roughly 40 Tribal and 15 State representatives. She assured everyone that these sessions do not constitute Tribal consultation but rather are intended to take up issues around consultation in connection with traceability and jurisdiction. She offered to e-mail to any requester a copy of the USDA tribal consultation Action Plan, which has been approved by the Office of Management and Budget and the White House. Janie also invited listeners to contact Under Secretary Avalos if they wanted to do so.

- Tribes are concerned about having an equal place at the table when it comes to sitting down with State Vets and hammering out the actual agreements on traceability that will determine what Indian producers have to do to move their animals interstate. States are used to thinking they are in control of such issues and will have to understand and accept that, in regard to traceability, they cannot dictate terms but must negotiate with Tribes and reach consensus.
- The Intertribal Agriculture Council rep said it's important not to work this issue solely with elected tribal officials but also to include outreach to the brand inspectors and producers during consultation.
- Tribes that have to work closely with the Bureau of Indian Affairs felt that the Dept. of the Interior should have been at this week's meeting. Janie now meets biweekly with DOI on ag-related issues.
- One State Vet said, "Let's have smaller regional meetings like this with Tribal and State reps present." Janie concurred and added that she is available to talk anytime and "Nothing is set in stone yet; Dr. Clifford is here to verify that."
- When does tagging become "mandatory"? Janie offered that Veterinary Services would need to offer consultation to all potentially affected tribes. Managing that process will take lots of time.
- There is still confusion about whether moving animals off a reservation to a sales venue constitutes interstate movement or not.
- What about moving animals inside a reservation where such movements cross a State border? One tribe straddles the Idaho/Nevada border, and Navajo is in parts of 3 States. Would those movements cause the interstate ID requirement to cut in?
- Dr. John Clifford said, "We [USDA] do not want to impede movements of animals from reservations or States. We want commerce to stay the same. We want to find common approaches between tribes and the States so things work properly the way you think they should work, with the least amount of impact on producers, but let us have good traceability when disease exists."
- Dr. Clifford said, "What's needed is acceptance by all of the concept of official IDs and agreement on the classes of animals that have to be identified in movement. If everybody here agrees that ID is needed, then we're all on the same page."
- There is a need for full examination of potential enforcement scenarios and a need for respect of Tribal enforcement activities by State enforcement arms.
- Several Tribal representatives said, "I couldn't sell NAIS on my Tribe and we're right back where we started from. I can't sell traceability either."
- Many issues surfaced around educating producers about: animal diseases in general; not taking eartags off animals from Mexico or Canada; and the value to them of participating in traceability-related work.
- Tribes are worried about costs associated even with the inexpensive (non-RFID) tags though USDA is on record as being able to partially fund tag purchases.
- There's a need for improved access to vet services and educational services to assist Tribal governments and intertribal orgs in bringing individual producers on board.
- One Tribe said that the multiple layers of tribal approvals required before a chairman can sign off on coop agreement paperwork makes it impossible to meet quick turnaround deadlines to get available Federal dollars. Dr. Terry Clark works with individual Tribes on requests to solve that problem.
- Many Tribes said that tracebacks based on their brand systems work great and no other ID efforts are needed. A tribal rep from Washington noted that Tribes work very cooperatively with the State government there and were able to trace an escaped heifer to its owner in just a few hours based solely on its Bangs tag.
- Dr. Clifford said, "As part of epidemiology, we start to do a trace on sick animals and if the animal seems to have come from Tribal lands, we do try to notify the involved Tribe, not just the State. We should be sending these notices to the Tribes *always* but have not been routinely doing so."

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Liability

Heyward Baker of USDA's Risk Management Agency (RMA) moderated 3 sessions on liability. The primary concern expressed during these sessions was that regardless of compliance to any requirements set, producers could still be held accountable for circumstances outside their control. In addition, they have no protection from unfounded lawsuits in our litigious society. Most participants oppose a bookend traceability design and favor a full traceability approach. Participants felt that, since an animal keeps a producer's tag throughout its life, the bookend paradigm leads potential liability only to producers. Full traceability can ensure all points of movement are recorded and can better protect producers when diseased animals are found months, or years, after they left the producer.

Minimizing Liability

- Measurements should be established to minimize liability, or offset costs, from producers, such as requiring recordkeeping, offering insurance plans, providing Federal funds, and using health certificates.
- A multi-faceted solution that links documentation of best management practices, health certificates, and animal traceability in a uniform records management system is preferred. This prepares the producer to defend litigation threats associated with animal traceability.

Recordkeeping

- Recordkeeping should be required by, and at, all points of animal movement.
- There is possible liability as a result of stored data and records, particularly if these records are exposed to business competitors. If records are being kept, producers need assurances information is protected.
- Recordkeeping should document management practices; however, it should be made clear which kinds of records maintained will reduce liability.
- A Federal system appears to offer the most protections.
- Clear liability responsibilities should be established for each step of the animal's movement to ensure the release of sole burden from the producer.

Insurance

- USDA could offer funds and resources to producers to ensure increased protection for liability exposure. Producers will enhance administrative procedures; however, this will increase costs to them which they cannot recover. Consequently, USDA could provide funds for this increased in due diligence.
- Private umbrella liability products should be considered to cover the costs of litigation and court awards.
- RMA may consider privately developed products for certain risks associated with production agriculture including livestock under Section 508(h) of the Federal Crop Insurance Act.

State/Tribal Relations

- Communications among Tribal nations and their neighboring States need to be fluid so there is an increase in cooperation rather than an increase in blame for liability.

Food Safety

- There are mixed messages surrounding animal and food traceability and the roles producers and States/Tribes play in each.

International Traceability Models

- USDA could incorporate traceability successes of other countries into the plan.

Education and Outreach

- Local government should provide education and outreach to producers regarding exposure from the FOIA and minimized liability. Local entities should convey the message that traceability systems on some level are already in place. This education and outreach effort should not come from Federal level.

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Information Technology

John Picanso, VS CIO, moderated 4 session on information technology. Approximately 80 attendees participated. They focused on maintaining an IT infrastructure to support animal disease traceability. Discussion in these sessions focused on both what key components of IT infrastructure should be as well as the challenges of system implementation and interoperability. Additionally, cost issues surrounding system implementation were discussed.

Central Question

- What is the IT “performance bar” that needs be met by all relevant governmental entities in order to achieve an effective animal disease traceability system?
- A minimum standardized data set that utilizes interoperable technologies on an available IT solution(federal, non-federal, or third-party)

Challenges to meeting the “bar”

- Ensure sufficient IT support and infrastructure
- Need to maximize flexibility of Cooperative Agreements to reduce financial burden on States and Tribes
- Programmatic priorities (i.e. with eCVIs, States need ability to verify location IDs), need to be recognized and incorporated into the solution
- Need for an expedited IT solution
- Accommodate need for a simple system that can process complex requirements
- Security requirements

Actions

- Develop link between eCVIs and traceability data
- Clarify available VS IT resources (people, training, systems, standards)
- Ensure VS communication status of all IT options as they progress
- Continued use and availability of existing systems
- Provide an overall animal health IT system option with Federal financial support and State and Tribal input as to functional requirements, etc.

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Record Keeping Summary

Dix Harrell, Assistant AVIC Florida, moderated three sessions on record keeping. Approximately 90 attendees participated. Participants focused on all aspects of an animal disease traceability program. Below are just a few of the comments and suggestions on the recording keeping discussion.

- There is a need for stronger enforcement for removing official forms of identification, applying multiple forms of identification, and/or keeping record of all forms of identification used.
- With additional requirement for record keeping there will be a need for additional funding to meet the need and need for additional office personnel to support for effort. Is it possible to modify the cooperative agreements to allow States to use funding to support entering of electronic data?
- There is a significant need for better collaboration between APHIS and FSIS. Official identification must be collected at the slaughter plants for proper traceability. FSIS requirements were designed for disease programs and not a animal disease traceability program. If we are increasing the number of animals identified we need to improve our collection of these identifiers. The direction should come from the Secretary. Additionally, it was suggested that APHIS look to its sister agency, GIPSA, for enforcement of proper record keeping.
- Where will records be kept? States have different capabilities for protecting information and there should not be one size fits all. Some States want to keep the data and in some States any request for information would be subject to FOIA. Certain States have overcome this challenge with protection for information related to regulatory work or tying premise identification to homeland security.
- USDA needs to determine what official identification will be. With up to 75 formats, record keeping will be difficult.
- Producers will need assurances that data will be stored securely. This outreach has not been 100% successful in the past and USDA should support the States and Tribes in developing their own forms of outreach materials. These materials should not come from USDA.
- There is a need for greater attention to the quality of data collected and kept.
- There are electronic options for record keeping in existence. States shared successes in utilizing these systems for tracking and recording information, example: USA Herds.
- Market veterinarians are key players in accurately recording animal identification information on health certificates. Some States have built in a market fees to support this position and other States are asking that USDA allow them to utilize cooperative agreement funding to support this position.
- If health certificates are going to be a key record of animal movement there may be a need for a health certificate with federal standards.
- A time limit for keeping records should be determined, example: one year.
- If there is going to be mandatory identification for interstate movement of animals, mandatory record keeping will also be needed.

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Interstate Movement and Jurisdictional Issues

Brian McCluskey, VS WR Director moderated four sessions on interstate movement and jurisdictional issues. The central question was how to ensure that the interstate movement of livestock will continue as each State and Tribe chooses specific methods for achieving traceability.

What needs to be in place for a State/Tribe to confidently trade animals with other States/Tribes?

- Animals coming into a State/Tribe must be identified back to the exporting State, and the exporting State/Tribe must be able to trace the animal back to individual premises
- Need to know the premises of destination for an animal coming into a State/Tribe
- Need to record identification numbers and be consistent about which ID's are recorded
- Differences of opinion in whether and how feeder cattle should be identified, especially if identification numbers are not collected at slaughter
- Need to be clear about why we need to be able to trace animals for disease purposes; some feel States/Tribes are already doing a good job keeping diseases out
- Need a quick and easy way to know the State of origin from the identification
- Need a system that takes into account small, "backyard" producers who move animals between States; it is difficult to educate them and ensure compliance
- States/Tribes must report diseases

How can States/Tribes work together to reconcile differences in approaches so as not to interfere with the movement of animals? What role could USDA play?

- Need to clarify whether movement from Tribal land is interstate movement and at what point interstate movement is considered to begin (commerce channels)
- "Bookends" can be different locations in different States; USDA should help define what those locations should be and the consequences for not being able to trace to them; States need this info in order to work with their producers and legislatures
- Tribes with land in more than one State expressed concern about possibly needing to coordinate with multiple States; expressed desire for some level of standardization, particularly about what constitutes "official identification"
- USDA could assist by developing uniform standards for each species
- USDA could set minimum standards
- May be value in recognizing regional differences; concentrating on one species at a time
- USDA could determine who distributes tags and what info must be collected to get a tag
- States and Indian Tribes with land in those States could develop plans together
- States/Tribes don't have resources to record ID numbers and health certificate info
- Need to know what producers are willing to do

Would a State/Tribal status system defined by USDA (such as consistent/not consistent) be a viable way to facilitate movement?

- USDA needs to be clear about what a State/Tribe must do to be consistent
- USDA needs to set consequences for noncompliance; could be movement restrictions or financial incentive
- Performance standards need to be specific as to what States/Tribes need to measure

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Resources

Jack Shere, VS ER Director, moderated four sessions on resources. States are suffering from budget shortfalls, having lost, in many cases, an average of 25% of their staff. In every session, there was someone who said that due to funding shortfalls, they had lost their animal ID coordinator who had been very valuable. It's getting harder and harder for states to commit to the 20% cost-sharing that is required for all of their various cooperative agreements (CAs).

What do States/Tribes need?

- Flexibility in use of CA funds to focus on animal traceability needs; personnel to input data into IT systems; to scan paper CVI's; temps OK; and ability to make amendments to meet our needs without micromanagement by VS.
- Whatever systems we develop will have to integrate data State to State and work across boundaries. Currently, States have problems getting back data on animals that have left their State.
- Consider State input on regulating interstate movement of feeders and breeding cattle (base decisions on risk)
- We need help selling the program to areas that only believe in branding and are very much against premises id.
- We need USDA help to gain support from our legislatures; USDA needs to help us educate our legislatures.
- We are not the "bad guys". The public perceives that we have failed, but we have made progress and need to really demonstrate success this time, or there will be no support.

Recommendations/Solutions offered

- Entity agreements such as the one being tested in Wisconsin where all CA funding allocated in one pot and State is allowed to transfer 20% of funds among different purposes (may be available if WI audit shows successful)
- Multi-year funding being tested in the Western Region (future possibility)
- If USDA could recommend effective systems, and States could find 3 or 4 they all agree might work, USDA might be able to support. USA Herds was mentioned as a system some States are using and in which others see potential.
- FSA resources had been used in the past; could explore a partnership with them would speed up implementation of traceability systems
- Some States have used CA funds to fund the development of software systems that they don't own, and that subsequently get offered at high costs to other States by the developing firms. USDA could craft CAs to enable States to pay to develop systems that could be shared with other States without paying all over again.
- Support "user fee" veterinarians to tag and follow through on id's at livestock markets
- Use scrapie-type "consistent" state status system to regulate.
- Survey all States to identify ways to prioritize resources
- We need to partner with producers and their reps to allow them to provide input on ways they can do this easily.
- Some States would like to use unique State-assigned numbers for their official ID and would like to input them in a searchable database
- Provide silver tags to producers, and not just State veterinarians
- States can provide traceability data, regardless of the record-keeping system they use, if USDA will just tell them what interstate id/tracing data will be necessary and in what format (provide a template)
- USDA IT personnel should familiarize themselves with IT capabilities of each State and Tribe.
- Identify regional channels where animals move regularly between States
- Consider R-CALF, LMA, stockgrowers on Secretary's Advisory Committee
- Encourage more MOU's between tribes and APHIS; Tribes and States

Issues and Questions

- CA monies used to develop traceability systems, but monies since redirected because too many restrictions now.
- Tribes, in particular, are very concerned about their lack of infrastructure to even begin talking about IT systems and electronic support for traceability.
- How can info be collected at slaughter plants? Who collects tags? RFID readers? Role for FSIS? Incentives?
- Auction markets and producers worried about cost of requiring electronic systems
- Bookend system might initially work, but is not traceability all along the way
- Is it mandatory for every class of animal? A lot of opposition could be mitigated, if there could be sensible exclusions. If only 18 months & older, would help
- Tribes want to protect their reservation boundaries from illnesses from out-of-State cattle
- If States are counting Tribal cattle in their requests for money, Tribes need to be at the table, too.