Follow Up Questions for Wesley Batista from Hearing Entitled "Concentration in Agriculture and an Examination of the JBS Swift Acquisitions

From Senator Kohl

1. Mr. Bullard of R-Calf has claimed that for two weeks in February 2006, the top four meatpacking firms ceased buying cattle on the open market. The meatpacking firms reduced slaughter rates rather than enter the cash market. As a result, cattle prices fell sharply. Cattle Buyers Weekly said at the time that the meatpackers' conduct was part of an effort to "try and get cattle bought cheaper."

A: JBS' business philosophy is to expand output and operate plants as close to full capacity as possible. We want to and intend to keep all of our plants full to maintain operating efficiency at the plant level.

2. Won't JBS Swift's acquisition of the captive supply offered by the Five Rivers Ranch Cattle Feeding LLC ("Five Rivers") make it much easier for JBS Swift to unilaterally engage in such conduct in the future to force cattle prices down?

A: Nearly all Five Rivers cattle are already under contract today to JBS and National Beef. The proposed acquisition will not change this, we expect and intend that these cattle will be going to the same place that they are today. Furthermore, Five Rivers represents less than 5% of the cattle produced in the United States. Owning Five Rivers will not give JBS the ability to affect the price of cattle.

3. How will JBS Swift utilize Five Rivers? Will Five Rivers be used solely to supply JBS processing facilities or will the cattle there be bid on by all three major processors in a non-discriminatory way?

A: JBS intends to operate Five Rivers as a standalone business entity, which will act to maximize its independent business interests. JBS and Five Rivers will continue to comply with all applicable laws governing purchase and sale of cattle.

4. Would you accept a condition that the cattle at Five Rivers be made available to all the remaining beef processors in a non discriminatory manner?

A: JBS will operate Five Rivers as a standalone business entity, which will act in its independent interest. JBS and Five Rivers will continue to comply with all applicable laws governing purchase and sale of cattle.

5. We've heard a lot of testimony about the number of beef packers across the country. But shouldn't we really evaluate this transaction based on its effect on local and regional geographic markets? Isn't it true that meatpacking plants mainly obtain their cattle from no more than a few hundred miles away?

A: Competition for the purchase of cattle is and will remain intense following the proposed transactions. The transactions will leave intact numerous competitively viable options for feedlots to sell their cattle. Even looking at the "High Plains" or "Beef Belt" area today, the overwhelming majority of feedlots will either experience no change in the number of processors or will continue to have at least three (or five) competing processors within 250 (or 500) miles.

As a practical matter, incremental transport costs per pound for the shipment of cattle are relatively low, and feedlots already can and do ship cattle great distances. Even R-Calf, which strongly opposes the proposed transactions, has publicly acknowledged that cattle in the U.S. are regularly shipped at least 300 miles. R-Calf and LMA have also publicly noted that feeder cattle ship virtually nationwide, meaning that any hypothetical attempt to lower prices paid to cattle producers would be quickly defeated as cow/calf operators diverted supply to other regions of the country.

6. We have heard some analysts say that there is an overcapacity in the meatpacking industry, and predict that JBS Swift will close some plants after the merger is completed. Is this true? Do you believe there is overcapacity in the meatpacking industry? And do you expect to close any plants in the years ahead?

   A: While marketplace conditions always influence operating decisions, JBS' business philosophy has always been to expand output and increase production, and we intend to continue to operate all of the plants being acquired as efficiently as possible. Operating the plants at higher – <u>not</u> lower – utilization rates is critical to achieving cost savings and other synergies expected to be realized from the transactions. JBS successfully implemented this strategy following its acquisition of Swift & Co. Swift's Greeley plant had been operating only one shift and had been considered for closure. After the acquisition, JBS kept the Greeley plant open, added a second shift, expanded cattle purchases and beef output, and significantly increased operating efficiency. JBS intends and expects to achieve similar results with the plants it will acquire from National Beef and Smithfield in the transactions.

7. With these acquisitions, there will be three large meatpacking firms controlling more than 80% of the market in the United States. Do you agree that any more consolidation or greater concentration would be anticompetitive?

   A: No, I do not agree. The number of suppliers and concentration are not reliable predictors of how competitive a marketplace is. In fact, I believe that competition between JBS and the other large beef suppliers will actually become even more intense after the proposed transactions are completed, because JBS will be a more efficient, lower-cost supplier. Competition from numerous smaller processors – both upstream and downstream – will also remain intense. In addition, beef customers are highly sophisticated purchasers who have the ability to play one beef supplier off of another to assure that they receive competitive pricing.

From Senator Hatch

1. Mr. Batista, the United States' meatpacking industry has had a rough time over the past several years. Many in the meatpacking industry believe that there is a surplus in meatpacking capacity. Under a classic economic analysis there are two methods to eradicate overcapacity. The first option is to close down redundant facilities. The second is to expand the markets for the meatpacking industry. I have been informed that JBS Swift intends to use the latter course and expand the markets for American beef. The Korean government's recent decision to reopen their markets should assist in the implementation of this strategy. However, some continue to question if the expansion of American beef exports is truly the core of JBS Swift's strategy. Mr. Batista, JBS Swift has a history of buying meatpacking enterprises outside of your native Brazil. In particular, I understand that JBS Swift has recently acquired holdings in Argentina, Australia and Italy. Did JBS Swift encounter overcapacity in those markets? Was it JBS Swift's business plan to similarly increase revenue by purchasing those foreign holdings? If American beef export expansion is your goal, what international sales infrastructure does JBS Swift have, that U.S. Premium Beef and National Beef lack, to finalize those increased sales?

A: JBS has historically followed a business philosophy of increasing output and expanding sales. After we acquired Swift & Co. last year, we expanded operations, added more shifts, hired more employees, improved operating efficiency, and bought more cattle. JBS plans to continue this growth strategy by combining our established international marketing expertise with National Beef's expertise in branded and value-added beef programs in order to grow demand for U.S. beef both domestically and worldwide. We agree that the recently announced, but not yet in effect, re-opening of South Korea to U.S. beef exports creates significant new opportunities for ranchers and JBS to work together to expand output and increase export sales of U.S. beef. JBS has proven its expertise in international sales by its success in utilizing its international sales infrastructure. For example, when Russia reopened to U.S. beef imports, JBS, which has a sales office in Moscow, was poised and ready to take advantage of this opportunity, and was among the first companies to begin selling U.S. beef into Russia.

2. Mr. Batista, the future and the market effects of the Five River feedlots was one of the major topics of discussion during the hearing. In greater detail, please address the transaction as it relates to Five Rivers and explain how those facilities will be used after the merger. In addition, how will the proposed transaction impact independent feedlots or other producers?

A: JBS intends to operate Five Rivers as a standalone business entity, and it intends to continue to act in the market as it does today. Almost all Five Rivers cattle are already sold under contract today and to JBS and National Beef. Five Rivers represents less than 5% of the cattle produced in the U.S. Transferring ownership of

Five Rivers to JBS will not in any way enable JBS to affect the price of cattle in the U.S. Independent cattle producers will continue to have many alternatives for selling their cattle.

3. Mr. Batista, issues were raised about the reduction in the number of companies that would be bidding for cattle and the impact that could have on competition. One witness, Professor Dillon Fuez, testified competition could increase with three strong companies rather than two strong companies. He said that "as one considers the market power dynamics of the new beef packing industry if this merger were approved, it might well be that there is actually increased competition." What are your thoughts on the matter?

A: JBS will inject much-needed capital and bring expertise, best practices, and innovative management to a "stagnant' U.S. beef industry. The U.S. beef processing industry desperately needs an infusion of new capital and new ideas. JBS is a long-time, family-owned operator of beef, pork and lamb processing plants with a long-term commitment to the industry, not a financial investor. We have a proven track record of successful operation in the U.S. beef industry in our acquisition of Swift & Co. Following the acquisition, JBS rapidly and successfully added shifts, expanded cattle purchases and beef output, increased efficiency, and grew demand for U.S. beef. Continuing that pattern of success, the proposed transactions will enable JBS to generate substantial cost savings and other synergies. JBS believes that the expertise and efficiency of the combined company following the proposed transactions will require other processors to compete even more vigorously post-transaction.

From Senator Grassley

1. Research to date shows significant economies of size associated with larger meatpacking plants. Today, nearly all fed cattle packing plants are large, efficient plants, slaughtering 1 million or more cattle annually per plant. Are there efficiency gains yet to be gained for individual plants? Since the plants that JBS plans to acquire are fixed plants in that they are not being expanded, will there be some type of coordination in the livestock/meat marketing channel that will make the plants more efficient? Where specifically are the efficiency gains then of merging already large, multi-plant firms?

A: JBS believes that there is always room for additional efficiency gains in this industry. This has been our experience after each prior transaction (e.g., our acquisition of Swift & Co. last year). Over and above improving efficiency in each plant (by implementing best practices), there are significant additional efficiency gains that will be realized from creating an expanded multiplant platform that combines the complementary plant locations and product strengths of JBS, National Beef and Smithfield. Combining the geographic locations of these plants will enable the merged firm to gain expanded access to premium cattle nationwide. The merged firm will be able to take full advantage of access to these cattle by bringing National

Beef's expertise in branded and value-added programs to this expanded platform. This expanded geographic footprint will offer more efficient distribution of products to downstream customers and improve the merged firm's ability to provide customer services. Ranchers will also share in these benefits, because the merged firm's expanded geographic coverage will give cattle producers expanded access to the premium market for sale of cattle for branded and value-added programs.

2. To date, research indicates gains in efficiency offset any loss from monopolistic elements. Efficiency gains can be viewed as positive by producers (translating into higher fed cattle prices) and consumers (translating into lower beef prices). What assurance can you give producers and consumers that monopoly elements will not someday – say from this merger – lead to a reversal and monopolization losses exceeding efficiency gains? In a time of rising prices at the grocery store, will you be able to pass on these efficiency savings to consumers and become more price competitive with other proteins?

A: The proposed transactions will not create "monopolization" market power for JBS, since other national, regional and local competitors will continue to participate in the market. Tyson, Cargill and numerous other processors will need to compete more vigorously with the merged firm due to its increased efficiency. Consumer prices will continue to be driven by supply and demand forces among many competitors.

3. US Premium Beef has been a model of what producers can accomplish in terms of value enhancement. USPB has indicated their operations on behalf of investor-cattlemen will continue if this merger goes through. What assurance can you give producers that this model will be continued into the future with gains accruing directly to the investor-cattlemen?

A: USPB will remain a valued partner, and will remain a stakeholder in JBS following the completion of the proposed transactions. The expertise of the USPB members in branded and value-added beef programs is a critical source of the deal's synergies and strategic benefits. JBS does not anticipate changing in any way either the relationship with USPB or the operational role of its members. We anticipate that USPB members will realize significant benefits from the transactions, particularly because the transactions will increase demand for USPB members' premium-priced, value-added cattle. JBS was very pleased that USPB members voted overwhelmingly (over 90%) in support of the JBS-National Beef transaction. U.S. Premium Beef, "U.S. Premium Beef, LLC, Unitholders Overwhelmingly Vote to Approve Agreement to Sell National Beef Packing Company, LLC To JBS S.A.," press release, March 14, 2008, available at http://www.uspremiumbeef.com/USPB%20unitholder%20vote%20press%20release%20FINAL%20031408.pdf. We think this indicates that the USPB members share in our vision for the success of the combined company and recognize the benefits that they will realize as a result of the proposed transactions.

4. In Iowa, we produce more hogs than any other state. However, the hog marketing channel is quite different from the beef cattle market channel. Hogs have tight genetics, are fed in confinements, and in general the process has very intensive control. One of Smithfield's strategies was to do the same thing with Five Rivers, but this did not work. Feeding capacity and slaughter capacity were located too far apart. Is JBS going to be able to coordinate this better? How do you plan to manage it? For example, the majority of hogs in Iowa are under production contract. Do you plan to develop production contracts in the future similar to the hog model, but just in beef?

A: JBS will continue to offer ranchers a variety of options for selling cattle (e.g., cash, alternative marketing arrangements) and will negotiate for the sale of cattle as it always has. We will continue to compete vigorously with other processors for cattle, and will utilize whichever forms of cattle purchase agreements producers choose to negotiate.

5. Some cattlemen oppose packer ownership of cattle and feedlots. Opposition often focuses on leveraging packer owned fed cattle against cattle purchased in the open market. With the acquisition of Five Rivers Ranch Cattle Feeding, perhaps a bigger concern is JBS competing with its deep pockets for feeder cattle. How can JBS assure it will not push up the cost of feeder cattle to other feedlots? How soon will cattle from Five Rivers feedlots be funneled directly to JBS packing plants? What is JBS's philosophy on procurement of cattle? What percentage of cattle do you anticipate will be purchased on the spot market by your firm?

A: Five Rivers will operate as a standalone business entity. JBS will continue to participate in feeder cattle procurement to the extent that it makes business sense as part of our strategy to increase output, expand production, and grow the demand for U.S. beef worldwide. A key part of our cattle procurement philosophy is to build partnerships and strong relationships with key stakeholders, including cattle producers. JBS' success is entirely dependent on having a reliable supply of cattle to fill its plants, and we are committed to working closely with producers to find the most efficient ways to achieve this.

6. Moving products both domestically and internationally is a necessity to compete globally. Can you explain your strategy for international exports? In other words, does JBS have the ability to access export markets that current packers do not? Do you believe that this merger will have any affect on our trading relationships with Mexico or Canada?

A: JBS has unique access to overseas distribution relationships for U.S. beef, and has significant expertise and experience in selling U.S. beef abroad. JBS has proven its expertise in international sales by its success in utilizing its international sales infrastructure. For example, when Russia reopened to U.S. beef imports, JBS, which has a sales office in Moscow, was poised and ready to take advantage of this

opportunity, and was among the first companies to begin selling U.S. beef into Russia.

7. Is JBS planning to import beef to the United States? If so, what are the countries and the projected amounts?

A: JBS has no current plans to import beef into the United States beyond the small amount it imports today – and Swift did prior to its acquisition by JBS – from its (formerly Swift's) Australian operations.

8. According to some news reports, JBS was found to have manipulated cattle prices in Brazil. Can you explain the allegations and the details of any settlement with the Brazilian government? Can you provide my office the written allegations by the Brazilian government and any consent decree, settlement or similar document?

A: The investigation to which you refer arose in the context of a meeting of representatives from several Brazilian beef processors to discuss a potential response to a proposed piece of tax legislation. Some time after this meeting, JBS, Mr. Artemio Listoni (an employee of JBS') and I were included as defendants in an antitrust investigation related to that meeting. Following the investigation, neither JBS, Mr. Listoni nor I were found to have manipulated cattle prices in Brazil or to have engaged in any other anticompetitive behavior. The investigation as it related to us was closed pursuant to a settlement agreement, under which we were not required to admit any wrongdoing and the parties involved paid fines limited to the minimum amounts established by law. In its statement regarding the settlement, the Brazilian authority stated that the alleged conduct related to a minor portion of JBS' turnover, and that the conduct under investigation was neither intended to nor did it have the effect of influencing cattle prices. We attach copies of this statement and the settlement agreement, along with English translations of these documents.

9. What percentage of your company is government owned, directly or through funds/companies in which the Brazilian government has an interest?

A: BNDES currently owns 12.95% of JBS' shares. BNDES is a federal development bank which is publicly traded on the Sao Paulo stock exchange in Brazil.

10. What part of the transaction in Australia and the U.S. is financed by the Brazilian government, through funds or entities in which the government has an interest?

A: The Brazilian government has not directly financed any part of the Australian or U.S. transactions. JBS is in the process of obtaining more financing from various investors in Brazil, including BNDES. When that process is complete, BNDES will own approximately 19.42% of JBS' shares.

11. Could you please identify your directors and top management that are former Brazilian government officials. What are their names, current position, and former position in government?

A: An independent director on JBS' Board of Directors, Marcos Vinicius Pratini de Moraes, formerly acted as a Minister of Agriculture in Brazil.

12. Large firms operating in a highly concentrated industry raise questions for producers and consumers. Are JBS and the largest firms willing to increase transparency of their market behavior so as to reassure producers and consumers they continue to operate in the best interests of all Americans? This might involve sharing additional detailed financial data in a common format to GIPSA or DOJ? For example, would JBS be willing to submit its sources of capital for this acquisition to auditing agencies?

A: JBS will continue to comply with all applicable U.S. laws, auditing requirements and regulatory reporting requirements.

From Senator Feingold

1. I have some serious concerns that the costs and other burdens of a national animal identification system will fall disproportionately on family farmers and ranchers. Mr. Batista and Mr. Hunt, do you support a national animal identification and tracking system? Do you have any plans to require participation in such a system for any part of your operations? How much are your companies prepared to contribute? Or are farmers and ranchers expected to shoulder the entire cost of the identification tags?

A: JBS does not take a position on the implementation of a national tracking system. If such a system is adopted, we will comply with all applicable U.S. laws and regulations.

2. Mr. Batista, state meat inspection is an issue that the Chairman has been a great leader on. Do you believe meat from state inspected plants should be allowed to be shipped across state lines as long as it meets the same standards as meat imports?

A: JBS is and always has been committed to ensuring the quality and safety of its products and complying with all applicable meat safety rules and regulations. We will continue to comply with all applicable U.S. laws and regulations.

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A: BNDES currently owns 12.95% of JBS' shares. BNDES is a federal development bank which is publicly traded on the Sao Paulo stock exchange in Brazil.

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