

No. 04-12137-D

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

HENRY LEE PICKETT,)	On Appeal from the United
et al.,)	States District Court for
)	the Middle District of
Plaintiffs-Appellants,)	Alabama, Northern Division
)	
v.)	C.A. No. 96-A-1103-N
)	
TYSON FRESH MEATS, INC.,)	The Honorable Lyle E. Strom
)	Judge Presiding
Defendant-Appellee.)	

Motion of Proposed *Amici Curiae* Fifty Leading Scholars, Farmers, Ranchers,
Farm and Ranch Organizations, Businesses, Cities, Consumer Groups, and
Religious Organizations in Support of Plaintiffs-Appellants Seeking Leave to
File Brief in Support of Plaintiffs-Appellants

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List of *Amici Curiae*¹


Ainsworth Feedyards Company, Inc.
American Corn Growers Association
Campaign for Family Farms and the Environment
Professor Peter C. Carstensen
Cattle Producers of Washington, Inc.
Center for Rural Affairs
City of Faith
Dakota Resource Council
Dakota Rural Action
Faith Livestock Commission Company
Farmers State Bank of Faith, South Dakota
Professor Neil E. Harl
Heart of America Action Linkage, Inc.
Idaho Rural Council
Iowa Citizens for Community Improvement
Kansas Cattlemen's Association
Kansas Farmers Union
Kemper County Farm Bureau (Mississippi)
Land Stewardship Project (Minnesota)
Madera County Farm Bureau
Professor Roger A. McEowen
Midland Bull Test, Inc.
Miller Land & Livestock, Inc.
Missouri Rural Crisis Center
Missouri Stockgrowers Association
Montana Cattlemen's Association
Montana Quality Foods & Processing
National Catholic Rural Life Conference
National Contract Poultry Growers Association
National Family Farm Coalition
National Farmers Organization
Nebraska Farmers Union
Nebraska Livestock Markets Association
North Dakota Farmers Union

¹ See Appendix for a full statement identifying each proposed *amicus curiae* person or entity.

Northern Plains Resource Council
Ohio Farmers Union
Oregon Livestock Producer Association
Organization for Competitive Markets
Pennsylvania Farmers Union
Powder River Basin Resource Council
Public Citizen
Ranchers Cattlemen Action Legal Fund United Stockgrowers of America
Rocky Mountain Farmers Union
Rural Advancement Foundation International USA
Lori Sokolowski dba Solo Pork
South Dakota Farmers Union
South Dakota Stock Growers Association
Southeast Wyoming Cattle Feeders Organization
Western Organization of Resource Councils
Whittemore Feeders Supply, Inc.

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Set forth below is a complete list of the persons and associations of persons, firms, partnerships, or corporations that have or may have an interest in the outcome of this case, which were not included in the Brief of Plaintiffs-Appellants, including any publicly held company that owns 10% or more of the party's stock, to the best of my knowledge.



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Attorney for Proposed *Amici Curiae*

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James Berge

Gary Bierschenk

Kenneth Brooks

Randy Burnison

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Professor Peter C. Carstensen

Center for Rural Affairs

City of Faith

Vernon Deines

Fred Detrixhe
Gary DeVaney
Fred Eiguren
Margene Eiguren
Faith Livestock Commission Company
Farmers State Bank of Faith, South Dakota
Robert Finken
Ronald Foster
Raymond Fowler
James Fudge
John Gilbert
Robert Gunzenhauser
John Hansen
Don Harris
Lina Hessman
Larry Holder
Gary Hoskey
Idaho Rural Council
Iowa Citizens for Community Improvement
Vern Jantzen
Ralph Johnson
Dan Joyce
Kansas Cattlemen's Association

Kansas Farmers Union
Kathleen Kelley
Kemper County Farm Bureau (Mississippi)
Chuck Kiker
Linda Kleinschmit
Frank Kloucek
Land Stewardship Project
Daryl Larson
George Leatherman
Philip Lehman
Joe Logan
Gale Lush
Madera County Farm Bureau
Bryan McConnell
James McCuen
Leo McDonnell, Jr.
Midland Bull Test, Inc.
Jay Miller
Miller Land & Livestock, Inc.
Kevin Miskell
Missouri Rural Crisis Center
Missouri Stockgrowers Association
Montana Quality Foods & Processing

Malcolm Moore

National Catholic Rural Life Conference

National Contract Poultry Growers Association

National Family Farm Coalition

National Farmers Organization

Nebraska Farmers Union

Nebraska Livestock Markets Association

Blaine Nickles

North Dakota Farmers Union

Northern Plains Resource Council

Larry Novak

Oregon Livestock Producer Association

Chris Peterson

Jerry Petik

Van Pittman

Powder River Basin Resource Council

Ranchers Cattlemen Action Legal Fund United Stockgrowers of America
(R-CALF USA)

Linda Rauser

John Rempe

Brad Reis

Rocky Mountain Farmers Union

Rural Advancement Foundation International USA

Richard Schlosser

Herman Schumacher

Korley Sears

Rhett Sears

Robert Sears

Ron Sears

Mike Smith

Lori Sokolowski dba Solo Pork

Southeast Wyoming Cattle Feeders Organization

Roy Stoltenberg

Bob Sullivan

Marcie Svenningsen

John Sumption

Jerry Swartz

Donn Teske

Edward Werth

Western Organization of Resource Councils

Maynard Whitmyre

Whittemore Feeders Supply, Inc.

Dennis Wiese

Jon Wooster

I. INTRODUCTION

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, the Proposed *Amici Curiae* respectfully request leave of this Court to submit a brief as *amicus curiae* in this action in support of Plaintiff-Appellants' appeal seeking reversal of the trial court's grant of judgment as a matter of law below.

II. INTEREST OF PROPOSED *AMICI CURIAE*

The persons and entities seeking leave to file a brief as *amicus curiae* include leading scholars, farmers, ranchers, farm and ranch organizations, businesses, consumer groups, religious organizations and one municipality. Collectively they represent hundreds of thousands of food producers, consumers and citizens. They favor a food economy that properly allocates resources and prices products according to supply and demand without the use of captive supply or other conduct that artificially lowers farm gate prices or increases profit spreads of dominant firms such as Tyson Fresh Meats, Inc. They also favor an interpretation of the Packers & Stockyards Act which goes further than general antitrust law and is not merely redundant to the Sherman and Clayton Acts.

Professors Roger A. McEowen, Neil E. Harl and Peter C. Carstensen have written extensively on the perils of monopsony power, the lack of consumer benefit and the failure of some courts to recognize the conduct that can give rise to unlawful exercise to unlawful buyer power.

The farms, ranches and nonprofit farm and ranch organizations seeking leave to file an *amici* brief are representing their members' interest in fair and competitive markets for farm commodities, transparency in price discovery, market access for all producers, reduction in price discrimination, and lessened control by dominant firms of agricultural markets and farm management decision.

The businesses and municipalities have an interest in maintaining the profitability of their farm and ranch customers so that they may also remain financially strong. The religious organizations have a moral and ethical concern with the conduct of dominant power buyers that harm agricultural producers economically while also destroying the social fabric of rural communities.

Public Citizen, a consumer organization, has an interest because monopsony and monopoly power are inseparable in the food economy thereby resulting in increased profit margins for food processing firms, including Tyson Fresh Meats, Inc., and causing economic harm to both consumers and agricultural producers.

III. DESIRABILITY AND RELEVANCY OF AMICUS BRIEF

The proposed *amicus* brief addresses the core issues under consideration by this court. These issues are not just of interest to the parties in this case. They are of concern to the entire cattle industry, the hog industry, the poultry industry, the food industry and rural communities. Livestock agriculture is the major economic activity in many rural communities in states such as Nebraska, Wyoming, Iowa,

South Dakota, Alabama, Mississippi and California — just some of the states represented by the proposed *Amici Curiae* groups.

The economic power of food processing firms is a major issue for producers and consumers. Some courts have, in the past, taken an overly narrow and theoretical view of the food economy en route to overlooking conduct by large firms that harm competitors, suppliers, buyers, and cause a misallocation and improper distribution of resources across the economy. Further, some courts have attempted to ignore the history and uniqueness of the Packers & Stockyards Act of 1921 despite Congress' intention that the Act address the specific problems in the livestock sector.

This is the first class action suit ever brought under the Packers & Stockyard Act. The proposed *amici* parties uniquely represent a broad cross-section of interests in this country, and yet have a common position regarding this case and its impacts. It is important for this court to consider the interests and the arguments of these persons and entities in its deliberations. Mere consideration of the narrow economic and legal interests of the parties to this litigation is insufficient.

If the trial court's decision is not reversed, the Packers & Stockyards Act will be rendered irrelevant in the face of other antitrust laws which are not sector specific. Future civil actions by livestock producers will be difficult under the

Packers & Stockyards Act. Further, unproven theoretical defenses by dominant firms will prevail over proven facts accepted by a jury.

IV. CONCLUSION

For these reasons, proposed *Amici Curiae* support the Plaintiffs-Appellants' appeal seeking reversal of the decision of the trial court below and respectfully request that this Court grant leave to file the Brief of *Amicus Curiae* which is included with this motion.

Dated: June 16, 2004.

Respectfully submitted,



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**APPENDIX TO MOTION FOR LEAVE TO FILE
BRIEF OF *AMICUS CURIAE***

Identity of Proposed *Amici Curiae*

1. **Ainsworth Feedyards Company, Inc.** is a corporation operating in Ainsworth, Nebraska. The company is in the business of feeding cattle for slaughter for itself and other cattle owners. Annual sales are approximately 70,000 fed cattle. The company does business with Tyson Fresh Meats, Inc. and other slaughter houses. The interest of the company in this case is to promote fair, open and competitive markets for fed cattle for its own interest and that of its customers.
2. **American Corn Growers Association (ACGA)** is a national association representing producers of corn. It has members in 35 states who work together on economic, policy and research issues affecting them. ACGA understands and is concerned about the inherent disparity in market power between agricultural producers and large processors in all commodities.
3. **Campaign for Family Farms and the Environment (CFFE)** is an action-oriented coalition that supports family farms, clean air and clean water, and works to stop government and agribusiness policies and practices that are detrimental to family farmers, rural communities, public health, and the environment. CFFE is made up of 5 state-based organizations: Iowa Citizens for Community Improvement, Land Stewardship Project

(Minnesota), Missouri Rural Crisis Center, Illinois Stewardship Alliance, and Citizens Action Coalition of Indiana. CFFE represents thousands of farm families across the country. It is interested in this case because fair and competitive markets are essential in its efforts to protect family farmers and rural communities from the negative consequences of corporate concentration in agriculture.

4. **Professor Peter C. Carstensen** is the Young-Bascom Professor of Law at the University of Wisconsin Law School. He is a specialist in competition law and policy. He has a master's degree in economics and a J.D. from Yale University. He frequently provides policy advice to many governmental and non-governmental entities including The Federal Trade Commission (FTC) and the Antitrust Division of the Justice Department on issues of buyer power and other antitrust matters..
5. **Cattle Producers of Washington, Inc.** is a not-for-profit corporation organized and doing business in the State of Washington. Cattle Producers of Washington members are individuals working together to sustain and improve the live cattle industry of Washington State through communication, education and advocacy. The organization's interest in this case is to preserve against the market closure and artificial price depression experienced by Washington cattle owners through captive supplies.

6. **Center for Rural Affairs (CFRA)** is non profit charitable corporation under 501 (c)(3) of the Internal Revenue Code, incorporated in the state of Nebraska. The Center for Rural Affairs works to strengthen family farms and ranches, small business and rural communities. CFRA has an interest in this case; its ability to achieve its objectives is hindered by the unfair practices at issue in this case because they reduce the income of family farmers and ranchers selling cattle, thus reducing the economic viability of the communities in which they live and do business.
7. The **City of Faith** is a nonprofit governmental organization. The City of Faith has been an incorporated City of the State of South Dakota since 1912. Since the economy of the City of Faith is very dependent on agriculture and ranchers raising and selling cattle, it is in the best interest of the City of Faith to support cattle producers and their right to sell in competitive markets free from the exercise of monopsony power by dominant buyers.
8. **Dakota Resource Council (DRC)** is a grassroots organization formed in 1978 to protect North Dakota's land, air, water, rural communities, and agricultural economy. DRC is working for preservation of family farms, enforcement of corporate farming laws, protection of groundwater and clean air, and renewable energy. DRC's mission is to form enduring, democratic

local groups that empower people to influence decision-making processes that affect their lives.

9. **Dakota Rural Action** is a non-profit, charitable organization organized according to South Dakota law. It is a grassroots family agriculture and conservation group that organizes South Dakotans to protect our family farmers and ranchers, natural resources and unique way of life. The interest of Dakota Rural Action in this case is to restore competition to the market place so that South Dakota producers are able to sell their products for a fair price.
10. **Faith Livestock Commission Company** is a South Dakota corporation engaging in livestock commission sales in the town of Faith, SD. It is a stockyard and market agency within the meaning of the Packer & Stockyards Act. It markets livestock for its area customers bringing them a competitive market and thus rewarding them with a higher price for their livestock than they would have received by selling direct. It also takes away all the risk of having a "bad check", assuming all the risk of getting their money collected. Faith Livestock Commission Company works very hard to get potential buyers to our establishment to ensure a competitive market. Its interest in this case would help to ensure a competitive for all of our buyers and sellers.

11. The **Farmers State Bank** of Faith, South Dakota, is a for profit community bank in Faith, SD organized and chartered under the laws of the state of South Dakota. Many of its customers are cattlemen. Its interest in this case is to insure that cattlemen receive fair market prices in the marketplace that are not artificially depressed.
12. **Professor Neil E. Harl** is the Emeritus Charles F. Curtiss Distinguished Professor in Agriculture and Professor of Economics at Iowa State University. Among his numerous publications, he is the author of a 15-volume treatise on Agricultural Law published by Matthew-Bender. Dr. Harl has a PhD in economics from Iowa State University and a J.D. from the University of Iowa College of Law
13. **Heart of America Action Linkage, Inc. (HAAL)** non-profit corporation organized in Missouri. HAAL is an all volunteer organization representing member consumers in the Kansas City region and 43 small farmer and farmer cooperative members in eastern Kansas and western Missouri that practice ecologically sustainable and humane methods of producing fruits, vegetables and free range meats. Its interest in the case is to address unfair price manipulation in agricultural markets by dominant firms which economically harm producers in the Kansas City region.

14. **Idaho Rural Council (IRC)** is a nonprofit, charitable corporation organized under the laws of Idaho with its principal place of business in Idaho. IRC is a grassroots organization whose members are farmers, ranchers and rural residents committed to the preservation of family farms, ranches, rural communities and natural resources. Part of IRC's mission is to insure open, competitive and fair markets for livestock and agricultural commodity producers in Idaho and the rest of the United States. IRC has, and has had, an interest in this case because it will establish the right of cattle producers to sell in competitive markets now dominated by a few monopolistic buyers.
15. **Iowa Citizens for Community Improvement (Iowa CCI)** is a nonprofit, charitable corporation organized under the laws of Iowa and operating primarily in the state of Iowa. Iowa CCI currently has over 2,100 dues-paying members, many of whom farm and live in rural communities. Iowa CCI's mission is to empower and unite grassroots people of all ethnic backgrounds to take control of their communities; involve them in identifying problems and needs and in taking action to address them; and be a vehicle for social, economic, and environmental justice. Iowa CCI is interested in this case because fair and competitive markets are essential to protect family farmers and rural communities from corporate concentration in agriculture.

16. **Kansas Cattlemen's Association (KCA)** is a recognized 501(c)(5) non-profit organization under Kansas law. KCA represents independent, grass-root cattle producers and feedlot operators on marketing and trade issues. The mission of the Kansas Cattlemen's Association is to restore profits, self-esteem, freedom, fair trade, trust and community pride back to the farms, ranches and rural communities across Kansas and the nation. KCA's interest in this case is to restore competitive markets for our members by eliminating captive supplies that depress the cash market.
17. **Kansas Farmers Union (KFU)** is a nonprofit 501(c)(5) corporation organized and doing business in the state of Kansas since 1973. KFU is the second largest general farm organization in Kansas representing 8,500 families including farmers, ranchers and members of the rural community. KFU's goal is to protect and enhance the economic well being and quality of life for family farmers, ranchers and rural communities. Its interest in this case is to protect the ability of farmers and ranchers to sell their commodities, including beef, in markets that are not artificially depressed by market power.
18. **Kemper County Farm Bureau (Mississippi)** is an independent, non governmental, voluntary organization governed by and representing farm and ranch families in Kemper County Mississippi for the purpose of

analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well being. Its mission and policy supports fair, open and competitive markets. Kemper County Farm Bureau believes that captive supplies distort these markets to the detriment of our members. Therefore, it supports the position of the plaintiffs in this matter.

19. **Land Stewardship Project (LSP)** is a nonprofit, charitable corporation organized under the laws of Minnesota and operating primarily in the Upper Midwest. LSP counts 2,000 families in its membership, about one-third of whom farm (most of whom raise livestock) and the great majority of whom live in agricultural communities in the Midwest. LSP's mission is to promote sustainable, family farm agriculture and the long-term care of the land, through education, organizing, beginning farmer support, and policy development. LSP is interested in this case because fair and competitive markets and fair prices are critical elements to a sustainable agricultural system, to the viability of independent family farms and to environmental stewardship.
20. **Madera County Farm Bureau** is a nonprofit California corporation doing business in Madera County, California. It is a general farm organization representing the economic, regulatory and policy interests of its members.

Many of its members are cattle producers. Its interest in this case is to protect market access and competitive prices for its member in the cattle industry, as well as in other agricultural commodities.

21. **Professor Roger McEowen** is an associate professor of agricultural economics and extension specialist in agricultural law at Kansas State University, and has been a visiting Professor of Law at the University of Arkansas School of Law. He is the lead author, along with Professor Harl, of Principles of Agricultural Law, Agricultural Law Press (current through Release 14, January 2004). Professor McEowen has a master's degree in agricultural economics from Iowa State University and a J.D. from the Drake University School of Law.
22. **Midland Bull Test, Inc.** is a corporation operating in Columbus, Montana. The company is among the largest seedstock suppliers for the cattle industry in North America. Midland Bull Test is interested in this case because its many customers rely upon open and competitive livestock markets for economic survival.
23. **Miller Land & Livestock, Inc.** is a corporation engaged in commercial cattle and purebred seedstock production in Washington, Virginia. The company has an interest in this case because it relies upon open and competitive markets for its livelihood. Further, its seedstock customer

require fair markets to economically survive and continue as buyers of purebred bulls.

24. **Missouri Rural Crisis Center (MRCC)** is a nonprofit, charitable corporation organized under the laws of Missouri and operating primarily in the Midwest. MRCC has more than 5,500 farm and rural family members from across the state. MRCC's mission is to preserve family farms, promote stewardship of the land and environmental integrity, and to strive for economic and social justice among diverse groups, both rural and urban. MRCC works toward this mission through public education, community-based organizing, family farm advocacy and localized economic development strategies throughout rural Missouri. MRCC is interested in this case because fair and competitive markets are a key issue to its members, many of whom are diversified livestock and crop producers. When markets are unfairly manipulated by corporate meatpackers, the result is fewer farms and less local economic activity. MRCC believes that a broad-based, democratic ownership of Missouri's agricultural and natural resources is the key to sustainable family farms, prosperous rural communities, a clean environment and a healthy and affordable food supply.
25. **Missouri Stockgrowers Association** is a nonprofit organization in Missouri. Its membership consists of cattle owners working together on economic,

policy and regulatory issues affecting the Missouri cattle industry. The Missouri Stockgrowers Association interest in this case is to preserve its members' ability to market cattle in markets that are open, transparent and free from undue economic power.

26. **Montana Cattlemen's Association (MCA)** is a nonprofit association representing Montana cattle producers in Billings, Montana. Its members are individual cattle producers. MCA represents the interests of its members on economic, regulatory and policy issues. The association has long opposed captive supplies in cattle considering it an unlawful means to depress cattle prices.
27. **Montana Quality Foods & Processing** is a small, family-owned USDA-inspected slaughter and processing facility in Miles City, MT. It is incorporated in the state of Montana. Its interest in this case is to restore a healthy and viable market for agricultural producers and processors throughout rural America, of which it is a part.
28. **National Catholic Rural Life Conference (NCRCL)** is an 80 year old nonprofit, charitable corporation organized under the laws of the state of Iowa with its headquarters in Des Moines. NCRLC members consist of farmers, ranchers, religious leaders. For 80 years NCRLC has been the lead voice for the Catholic Church on agriculture issues in the United States. In

1998 Cardinal Mahoney of Los Angeles wrote to Senator Lugar, then chair of the Senate Agriculture Committee with the specific concern: “marketing arrangements such as ‘captive supplies’ decrease the amount of product available for bid in public markets. This clouds true price discovery and farmers are often left to take a price that is below the average. It is our contention that the markets must become more transparent to enable the independent producer to compete more effectively.”

29. The **National Contract Poultry Growers Association** is an agricultural cooperative organized in Arkansas with a principal place of business in Sanford, North Carolina. The association promotes the financial health poultry growers nationally through education, communication and policy advocacy. Poultry growers have seen first hand the economic harm caused by contracts in agriculture as their markets have disappeared, their income has lowered to poverty levels, and consumer prices for chicken continue to rise. Further, many of the association’s members own and feed cattle.
30. **National Family Farm Coalition** is a 501(c)(3) nonprofit charitable corporation organized under the laws of Michigan with its principle place of business in Washington, D.C. The NFFC, founded in 1986, represents family farm and rural groups in 30 states whose members face the challenge of the deepening economic recession in rural communities caused primarily by low

farm prices and the increasing corporate control of agriculture. NFFC's mission is to provide a voice for grassroots groups on farm, food, trade and rural economic issues. NFFC's interest in this case is to support fair market prices for producers, re-establish a competitive market place and address agribusinesses use of captive supplies which depress market prices.

31. **NFO, Inc.** ("NFO" or "**National Farmers Organization**") is a nonprofit corporation organized under the laws of Iowa, with its principal place of business in Ames, Iowa. NFO's members consist of livestock, dairy and grain producers throughout the United States. Many of the farmers and ranchers who are members of NFO produce and market cattle. Among NFO's goals is the goal of reclaiming fair, open and competitive markets for producers of agricultural commodities throughout the United States. NFO's interest in this case is to establish the right of cattle producers to sell in competitive markets free from the exercise of monopsony power by dominant buyers.

32. **Nebraska Farmers Union** is a nonprofit 501(c)(5) corporation organized and doing business in the state of Nebraska since 1913. It is the second largest general farm organization in Nebraska representing 4,500 family including farmers, ranchers and members of the rural community. The organizations' goal is to protect and enhance the economic well being and

quality of life for family farmers, ranchers and rural communities. The organization's interest in this case is to protect the ability of farmers and ranchers to sell their commodities, including beef, in markets that are not artificially depressed by market power.

33. **Nebraska Livestock Markets Association** is an association of livestock auction markets within the state of Nebraska. Its members provide extensive services for cattle sellers and cattle buyers in marketing feeder cattle, cows, fed cattle and other livestock. Nebraska LMA represents the business, political and regulatory interests of its membership. Its members are interested in protecting the integrity of the cattle marketplace from inappropriate conduct by any firm or combination of firms.
34. **North Dakota Farmers Union** is a nonprofit organization operating out of Jamestown, North Dakota. It is general farm organization with 36,229 family members (estimated 100,000 persons). NDFU represents the interests of your members with regard farming, ranching and rural community interests. NDFU in this case is to preserve the ability for its agricultural producer members to have access to open and competitive markets without undue influence by the conduct of dominant firms.
35. **Northern Plains Resource Council** is a conservation and family agriculture group organizing Montana citizens to protect their water quality, family

farms and ranches and unique quality of life. Northern Plains is a nonprofit charitable organization under 501(c)(3) with over 3,000 members (most of which are farmers and ranchers) and 10 local chapters in the state of Montana. Northern Plains' interest in this case is to see that competition is restored to livestock markets by prohibiting the use of captive supplies to illegally manipulate markets, thereby negatively impacting a producer's income and ability to sell their livestock in a fair and competitive market place.

36. **Ohio Farmers Union** (aka Farmer's Educational & Cooperative Union of America, Ohio Division) is a nonprofit, general farm organization organized under Ohio law. Its members are farmers, rural residents and consumers which include six thousand (6,000) families from all of Ohio's eighty-eight (88) counties. OFU's primary goal is to sustain and strengthen family farm and ranch agriculture. Thus, Ohio Farmers Union has a strong interest in preserving fair, open and competitive markets for producers of agricultural commodities in the United States.

37. **Oregon Livestock Producer Association (OLPA)** is a mutual benefit nonprofit corporation organized under the laws of Oregon with its principal place of business in Oregon. OLPA members consist of livestock producers and associate members with policy makers consisting of livestock producers

from the state of Oregon. OLPA's mission is to represent Oregon livestock producers in matters of reclaiming fair, open and competitive livestock markets as well as the preservation of secure property rights. OLPA's interest in this case is to fulfill the mission for which the organization was organized; i.e. to restore open competitive livestock markets for Oregon livestock producers.

38. **Organization for Competitive Markets** is a nonprofit, charitable corporation organized under the laws of Mississippi with its principal place of business in Nebraska. OCM members consist of farmers, ranchers, academics, attorneys and policy makers from across the United States. OCM's mission is to reclaim fair, open and competitive markets for producers of agricultural commodities in the United States. OCM's interest in this case is to establish the right of cattle producers to sell in competitive markets free from the exercise of monopsony power by dominant buyers.

39. **Pennsylvania Farmers Union** is a nonprofit, grassroots member based organization incorporated in the Commonwealth of Pennsylvania that is dedicated to protecting the economic interests and quality of life for Pennsylvania's family farms and rural communities. The membership is made up of farmers, their families, and supporting rural residents advocating for a family based agriculture production system. As a grassroots

organization supporting a free and fair marketing system with a transparent price finding mechanism, it is concerned about the ramifications of the ruling that appears to legalize an unfair trading practice and empower the monopolistic-like activities of a few buyers.

40. **Powder River Basin Resource Council** (PRBRC) is a nonprofit, 501(c)(3) grassroots membership organization organized under the laws of Wyoming with its principal place of business in Sheridan, Wyoming. PRBRC members consist mostly of Wyoming citizens with a wide variety of professions including ranchers, farmers, educators, business owners, attorneys, homemakers, clerical workers and students. The PRBRC mission includes working to preserve Wyoming's agricultural way of life, with a strong and lengthy history of support for captive supply reform in order to restore the right of its cattle producers to sell in competitive markets.
41. **Public Citizen** is a 501(c)(3) nonprofit charitable corporation organized under the laws of Washington, DC with 150,000 members in the U.S. It is a consumer advocacy organization that conducts research and engages in educational activities. Public Citizen's mission is to represent its members and the public interest in Congress, the courts, regulatory agencies, and other venues. Public Citizen's interest in this case arises out of its general concern about business practices by dominant food firms that unfairly widen their

profit margins, harm competition and cause economic harm to both producers and consumers.

42. **Ranchers Cattlemen Action Legal Fund United Stockgrowers of America** (R-CALF USA) is a public benefit corporation organized under the Montana Nonprofit Corporation Act and a membership-based 501(c)(6) nonprofit trade association representing the interests of United States live cattle producers, including cow-calf producers, backgrounders, and independent cattle feeders. R-CALF USA has 10,010 individual members residing in 44 states as well as 59 cattle association affiliates, including both state and county cattle associations within 18 states with regard to trade and marketing issues in the cattle industry. Its interest in this case is to protect market access and competitive cattle prices for the U.S. cattle industry.
43. **Rocky Mountain Farmers Union**, a 501(c)(3) organization, represents farmers and ranchers in Colorado, New Mexico and Wyoming, with its principal place of business in Colorado. RMFU members consist of primarily farmers and ranchers. Rocky Mountain Farmers Union is a progressive, grassroots organization dedicated to achieving profitability for family farmers and ranchers; promoting stewardship of land and water resources; delivering safe, healthy food to consumers; and, strengthening rural communities through education, legislation and cooperation. RMFU's

interest in this case is to establish the right of cattle producers to sell in competitive markets free from the exercise of monopsony power by dominant buyers.

44. **Rural Advancement Foundation International – USA (RAFI-USA)** is a non-profit organization dedicated to promoting sustainable agriculture, strengthening family farms and rural communities, and ensuring the responsible use of new technologies in agriculture. RAFI-USA’s mission and work are national in scope. RAFI-USA is interested in this case because of RAFI-USA's commitment to supporting a family farm system of agriculture, which in turn supports thriving rural communities. The unhindered trend of large corporate interests to seize ever-greater shares of the market and drive down prices to farmers continues to threaten family farmers and the rural communities they support.
45. **Lori Sokolowski dba Solo Pork** is an Iowa hog farm operating in Holstein, Iowa. Solo Pork is interested generally in limiting the market power of large, concentrated slaughterhouses which artificially depress prices for agricultural commodities.
46. **South Dakota Farmers Union** is a grass roots membership organization that serves the needs of rural South Dakota. SDFU has been the voice of the family farm for nearly a century. Its primary goal is to increase farm

income. SDFU has done this-and will continue to do so in the future-by being the farmers' "hired hand" in the halls of state and federal government. Building on a foundation of education, legislation and cooperation, SDFU has provided guidance and support for farmers, small businesses and rural communities throughout the state.

47. **South Dakota Stock Growers Association (SDSGA)** is based in Rapid City, South Dakota and is the largest trade association in South Dakota representing the cattle industry. Established in 1892, its members include ranchers, cattle feeders, and auction market operators. SDSGA's mission is to advance the economic, policy and social goals of independent cattle producers in the state. Its interest in this case is to protect the opportunity of cattle producers to sell their cattle in markets that are not affected by the overwhelming market power of Tyson.
48. **Southeast Wyoming Cattle Feeders Organization** is a nonprofit organization incorporated in the state of Wyoming. It acts on behalf of cattle feeders, dairymen, ranchers, farmers, attorneys and legislative representatives on issues regarding State and Federal regulations and legislation resulting in economic, social and cultural impacts on the cattle industry. SWCF's interest in this case is to restore a competitive market to the cattle industry.

49. **Western Organization of Resource Councils (WORC)** is a network of grassroots organizations from seven states that includes 8,250 members and 49 local community groups. WORC's seven state organizations are: the Dakota Resource Council (North Dakota), Dakota Rural Action (South Dakota), the Idaho Rural Council (Idaho), the Northern Plains Resource Council (Montana), Oregon Rural Action (Oregon), the Powder River Basin Resource Council (Wyoming), and the Western Colorado Congress (Colorado). WORC's principal place of business is Billings, MT. The organization's interest in this case is to preserve open and competitive markets for cattle owners.
50. **Whittemore Feeders Supply, Inc.** is a corporation operating in Whittemore, Iowa. The company is in the business of providing animal feed and other services to hog and cattle producers. The interest of the company in this case is based upon the fact that its many customers require fair market prices for their livestock production businesses to survive and continue patronizing Whittemore Feeders Supply.

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2004, a true and correct copy of the foregoing Motion of Proposed *Amici Curiae* Fifty Leading Scholars, Farmers, Ranchers, Farm and Ranch Organizations, Consumer Groups, and Religious Organizations in Support of Plaintiffs-Appellants was served by First Class, United States mail, postage prepaid; upon:

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