

# **EXECUTIVE SUMMARY**

**Information presented at the**

**Office of Information and Regulatory Affairs**

**By Stephen B. Smith and G. Thomas Blankenship**

**July 11, 2016**

MEETING AT THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS

Monday, July 11, 2016      10:30 a.m.      1800 G. Street N.W.  
9<sup>th</sup> Floor

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5 Term and current President of the Tennessee Walking Horse  
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Request to APHIS Director Kevin Shea for cooperation  
with the Veterinary Advisory Committee and the Walking Horse Equestrian Federation

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A complete copy of the February 23, 2016 letter, sent by Federal Express, is attached hereto. The specific request made was:

“It is the WHEF’s opinion that a viable and effective partnership with the USDA must be established in order to set forth appropriate standards for the detection of soring and to do that, information and protocols should be shared and analyzed utilizing the foremost experts in the field to establish testing protocols, threshold limits and define procedures in such a manner as to objectively and more thoroughly address the issue of any soring, masking or drugging agents. In that the WHEF is currently developing a complete set of rules and procedures to be implemented, I would appreciate it if you would advise me at your earliest convenience as to when and how the additional information requested on your report could be obtained and discussed, in order that the WHEF can utilize its independent experts and advisors to incorporate the USDA’s appropriate procedures in its protocols.”

**To date, the Veterinary Advisory Committee has not received any response or acknowledgement**

**BLANKENSHIP AND HAAS**  
**ATTORNEYS AT LAW**

*A PROFESSIONAL ASSOCIATION AND NOT A PARTNERSHIP*

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February 23, 2016

Mr. Kevin Shea  
APHIS Administrator  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Washington, D.C. 20250

Re: USDA, APHIS Horse Protection Program, Foreign Substance Report

Dear Director Shea,

Please allow me to again introduce myself as representative of the Walking Horse Equestrian Federation (WHEF), a certified HIO which is actively in the process of developing its rules and protocols to insure the welfare of the horse and the non-conflicted application of all laws and regulations.

During my meeting with you, your staff and others, it was unequivocally represented that the WHEF's desire and firm commitment is to be a partner with the United States Department of Agriculture for the mutual goal of eliminating soring. As the application represented, WHEF is intent on utilizing the partnership in furtherance of the standards required by the Horse Protection Act and its regulations by utilizing objective testing to insure full and complete compliance and eliminate the uncertainty of the pre-show inspection process.

I am extremely concerned regarding the Foreign Substance Report issued by your office for the period October 1, 2014 to September 30, 2015, wherein it indicates that the violations constitute soring practices. The WHEF is actively seeking data and information to be utilized in objective testing to eliminate soring issues. The organization would appreciate receiving further information on how the report statistics were obtained, the collection procedures, test methods, controls, substance levels, prohibited threshold limits, what constituted the basis to determine soring, and any other information which can be utilized and incorporated by the WHEF in its inspection protocols.

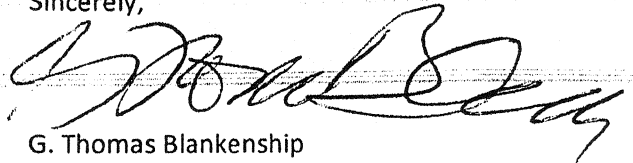
As you may remember, the WHEF predecessor, the Veterinary Advisory Committee (VAC), instituted drug protocols which were conducted during the 2014 Tennessee Walking Horse National Celebration, testing over 240 horses. This was the first time that broad-based specific drug testing protocols have been utilized by any Tennessee Walking Horse organization, public or private. As a result of the statistics and findings from said testing, penalties were assessed for violations above the threshold limits. The VAC then employed the services of Dr. Scott Stanley, Laboratory Director of the UC Davis Laboratory to assist in evaluation of the results collected and to further refine and develop new protocols and standards which are breed specific, while taking into consideration the blood test protocols and threshold limits from other breeds such as the USEF, FEI and other equine disciplines.

Those protocols were then defined, developed and published. I am pleased to report that every Celebration World Grand Champion, every Tennessee Walking Horse Breeders and Exhibitors Association Futurity winner, as well as other horses randomly selected were tested for drugs at the 2015 Celebration pursuant to published protocols and after strict chain of custody procedures and specific storing and shipment protocols, UC Davis completed a thorough analysis. No violations were found. This would appear to be in direct contradiction of your report.

It is the WHEF's opinion that a viable and effective partnership with the USDA must be established in order to set forth appropriate standards for the detection of soring and to do that, information and protocols should be shared and analyzed utilizing the foremost experts in the field to establish testing protocols, threshold limits and define procedures in such a manner as to objectively and more thoroughly address the issue of any soring, masking or drugging agents. In that the WHEF is currently developing a complete set of rules and procedures to be implemented, I would appreciate it if you would advise me at your earliest convenience as to when and how the additional information requested on your report could be obtained and discussed, in order that the WHEF can utilize its independent experts and advisors to incorporate the USDA's appropriate procedures in its protocols.

Thank you in advance for your cooperation. We are looking forward to a fruitful and cooperative partnership.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Thomas Blankenship', written over a horizontal line.

G. Thomas Blankenship

CC: Tennessee Walking Horse Breeders  
and Exhibitors Association

## HISTORIC BASIS FOR A SUCCESSFUL ALTERNATIVE TO RULEMAKING

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During the tenure of James S. Gilliland, General Counsel for the Department of Agriculture, the cooperation and dialogue regarding the application of the Horse Protection Act reached the highest level of effectiveness during the HPA era.

One major contributing factor was General Counsel Gilliland's instructions to then APHIS Director, Terry Medley, to establish an External Review Committee to examine objective and impartial measures to evaluate what could be done to improve procedures and report their findings and recommendations to the USDA for action to improve the enforcement of the HPA.

This same philosophy should be utilized at this time as a cost effective, more efficient and unquestioned probability of successful results.

All parties agree that the intent and purpose of the Horse Protection Act has not been effectively accomplished in over 45 years. The subjective nature of the attempts to enforce the HPA has led to agenda-driven, bias and has destroyed any semblance of a working relationship between the industry and the USDA. The unequivocal fact that inspections are unreliable as a result of the total subjectivity and failure to utilize objective standards.

The current inspection process is not working. Rulemaking would be contentious, counterproductive and has historically led to litigation.

This concept is confirmed in several Presidential documents, including Circular A-4, September 17, 2003, and Executive Order 13610, May 10, 2012. Quoting from EO 13610 signed by President Obama:

"... To the extent practicable and permitted by law, agencies shall also give special consideration to initiatives that would reduce unjustified regulatory burdens or simplify or harmonize regulatory requirements imposed." And further,

"... give priority to reforms that would make significant progress in reducing those burdens"

## REQUEST FOR SPECIFIC ACTION AS AN ALTERNATIVE TO RULEMAKING

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A committee be formed comprised of non-conflicted, non-agenda driven equine veterinarian experts to review, analyze and develop scientifically based, objective inspection protocols which comply with the intent of the Horse Protection Act, eliminate the subjectivity of show inspections, and place the welfare of the horse at the forefront.