



## **Allegations and Concerns of Mismanagement of National Soybean Checkoff Cause ASA to Call for a USDA Inspector General Investigation and Audit**

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### **Background**

The American Soybean Association (ASA) must do what is in the best interest of United States soybean farmers ethically, legally, and financially. Serious allegations of abuse, wasteful spending, and mismanagement have surfaced about how national checkoff funds and program activities are being conducted. These significant allegations and concerns have caused ASA to ask the Secretary of Agriculture to order an Office of Inspector General (OIG) investigation and audit of the United Soybean Board (“USB”) and organizations that USB has caused to be created, including the United States Soybean Export Council.

ASA is the only national, non-governmental, non-profit trade organization that represents soybean farmers in the United States. ASA and its state affiliates developed the concept for a national soybean checkoff in the late 1980’s and worked with Congress and USDA to enact this program in the 1990 Farm Bill. As the policy organization that represents U.S. soybean farmers, ASA believes it is responsible, along with USDA, to ensure that the soybean checkoff and other entities USB has created are operating in an accountable and transparent manner, consistent with the Act and the Order governing the use of checkoff funds, and in the best interest of soybean farmers. At Commodity Classic in March 2008, ASA’s Voting Delegates directed ASA to ensure that the national soybean checkoff fulfills the original vision, purpose, and goals that were envisioned when the national soybean checkoff was enacted.

Significant ethical, legal, and financial allegations and concerns have come to light that cause ASA to ask for an USDA Inspector General investigation of USB and related organizations. These concerns and allegations include wasteful spending of producer and government checkoff funds, violation of salary and administrative caps required under the Act and the Order, use of checkoff funds for prohibited purposes, abuse of authority, and failure to take proper actions over alleged areas of wrongdoing. The enormity of the allegations and concerns left ASA with no choice than to bring them to the attention of the Secretary and Inspector General for an impartial investigation.

ASA did not take this action lightly but with great reluctance and with no intent to injure anyone. However, ASA believes that since federally mandated checkoff contributions from all U.S. soybean farmers or federal taxpayer funds comprise all of the operations of USB and USSEC, we are compelled to ask that these charges be investigated by USDA in an unbiased and fair way, something that ASA directors have tried to do within the framework of USB and USSEC but have been thwarted in so doing by USB and its attorneys.

The ASA petition includes a number of specific allegations and concerns related to the operation of the national soybean checkoff including:

### **1. Alleged Wasteful Spending of Checkoff Funds**

During the national checkoff's 17 years of operation, soybean farmers have paid a total of \$1.3 billion in checkoff assessments. In 1992 when the national soybean checkoff began, checkoff collections totaled just over \$41 million. At the higher price and acreage levels experienced in 2008, checkoff collections are estimated to exceed \$140 million. It appears that a sense of unaccountability and power facilitated by too much money at the national level has led to the alleged abuses, wasteful expenditures of checkoff and government funds, and failure to take action on wrongdoing outlined below.

### **2. Alleged Violations of Salary and Administrative Caps**

The Act and the Order limit the amount of funds that can be spent on administrative staff salaries and benefits to one percent (1%) of assessments collected by USB. There are concerns that USB has evaded this restriction by placing USB office staff members on the "books" of contractors, even though they have been physically located in the USB office and have served under the direct day-to-day supervision of the USB CEO and USB Executive Director.

In addition the Act and Order provide that costs incurred by the Board in administering the Order (including all staff costs) shall not exceed 5 percent of assessments collected by USB. Examination is needed to determine whether USB has classified expenses properly as administrative costs, or has misclassified expenses in order to evade the 5 percent cap. Particular attention should be paid to ensure that all legal expenses, producer attitude survey expenses, resource allocation model expenses, accounting services, board and staff development costs, etc. that are related to administering the checkoff have been classified as administrative expenses.

Since soybean prices last year and this year (and associated checkoff collections) are multiples of the historical average, it is possible that the salary and administrative caps may not have been exceeded recently, even if expenses have been properly classified. For this reason it will be important to examine USB's historical actions from the inception of the checkoff in 1991 to the present, since it is in prior years when checkoff collections were much lower that the 1% and 5% limits may have been evaded by any improper classification of expenses.

### **3. Alleged Use of Checkoff Funds for Prohibited Purposes**

The Act and Order clearly prohibit any checkoff funds from being used in any manner for the purpose of influencing legislation or government action or policy, except under very narrow and specific circumstances. There is concern that USB may be violating this prohibition directly and through USB-created entities such as QUALISOY, the U.S. Soybean Export Council, the Soy Nutrition Institute, and others.

For example, the USB Chairman attended and spoke at *The Farm Journal Forum* in Washington, D.C. in December of 2004. His speech was a highly policy-oriented speech in which he advocated various agricultural and trade policy positions that were inappropriate to be given by a chairman of a checkoff organization that is statutorily prohibited undertaking policy-related activities.

Further, various USB prime contractors are known to travel regularly to Washington, D.C. to meet with government agencies and personnel to provide checkoff viewpoints on governmental actions and policies – activities that clearly are prohibited by the Act and Order.

Additionally, USB has spent millions in checkoff funds to create entities such as the QUALISOY Board, the U.S. Soybean Export Council, and others that have among their objectives attracting non-checkoff funding from industry to be used to influence government policy and actions. Spending millions in checkoff funds to establish entities to influence government actions and policy that remain under partial or complete checkoff control and direction appears to be a deliberate attempt to circumvent the statutory prohibition under which USB is supposed to operate. A complete investigation of all these practices is needed.

#### **4. Failure of USB Leaders to Take Corrective Action On and Carry Out an Independent Investigation of Alleged Wrongdoing at USSEC**

Significant allegations of improper actions have surfaced at USSEC, an entity created at USB's initiative by USB and ASA to carry out international marketing activities. These allegations include use of a knife by a USSEC employee at a USSEC function, whistleblower complaints of an improper employee relationship, a whistleblower complaint of receiving direction to break overseas laws and American regulations, whistleblower complaints regarding the awarding of no-bid contracts, complaints of a hostile work environment, wasteful or fraudulent feeding trials, mismanagement, and more. Incomplete and one-sided investigations were conducted by USB's and USSEC's legal firm (which are one in the same) on only some of these issues, and the whistleblowers were quickly fired or dismissed. The failure of USB leaders and its attorneys to conduct full and complete investigations, and their refusal to take proper actions, underscores how USB is no longer operating in a transparent, accountable, and responsive manner. Furthermore, the failure to take proper action has threatened to negatively impact U.S. soybean sales, market development programs, and the good reputation that has been built in overseas markets for over 50 years.

#### **5. Abuse of Authority**

There are complaints that USB staff and directors have utilized coercive and bullying tactics to silence criticism from state checkoff organizations. These complaints include USB threats to conduct over-rigorous compliance audits of state activities to silence criticism and questions from state checkoff board staff. Confidential survey and interview work with state staff should be done to investigate whether such abuses of power have occurred.

## **6. The Alleged Conflict of Interest with USB Staffing/Contracting Arrangement for Accounting**

The accountant that USB has hired to examine billings, account for expenses, and oversee payments to USB contractors actually is an employee of USB's largest contractor. This is a conflict of interest that needs to be investigated and eliminated.

## **7. The Apparent Excessive Spending by USB on Self-Promotion, Self-Perpetuation**

Analysis is needed to determine the total dollar amounts and percentage of total funds spent by USB on an annual basis since 1991 in communication activities to farmer audiences. It is believed that the amount of spending on self-promotion is high and disproportionate in relation to spending on actual demand-building activities for U.S. soybeans (e.g., domestic and international marketing activities) or production research spending to increase soybean yields and disease resistance. Funds spent for USB and checkoff self-promotion and "backsell" activities do nothing to increase the consumption, utilization or production of soybeans, but rather serve only to build name-recognition and support among farmers for USB and the checkoff. While some level of producer communications is appropriate to inform producers of checkoff activities, it appears that USB is spending excessively in this area to ensure its self-perpetuation.

## **8. The Apparent Excessive Spending by USB on Self-Preservation**

Related to an examination of the disproportionate amount of resources spent by USB on producer communications, an examination of the amounts USB spends to conduct comprehensive "producer attitude" surveys twice annually is needed. The primary purposes of these surveys are to: a) gauge producer perceptions of the checkoff; and, b) determine what types of producer communications will gain the most favorable response from farmers so that the most favorable "backsell" communications messages to producers can be crafted. Again, the clear motivation is self-preservation and self-perpetuation. It is believed that USB surveys no other soy buying or consuming group as frequently or as comprehensively, not even domestic feed users, domestic food users, or international buyers. Additionally, USB contracts with professional polling firms and political/issue campaign advisors to design these producer surveys, interpret results, and design future producer communications messaging strategies. Again, USB does not spend the same level of resources to survey and adapt message strategies to actual buyers or users of U.S. soybeans and soy products. Investigation is needed to determine the amount spent on such producer surveys, survey interpretation, and message design contracts for each year since 1991.

## **Conclusion**

As the voice and representative of U.S. soybean farmers, ASA has the responsibility to ensure that the national soybean checkoff is serving the ir best interest. ASA believes strongly in the need for a national checkoff program – but one that is accountable, transparent, responsive to soybean farmers, and spends their dollars wisely. Over the coming months, ASA will begin announcing specific steps that it will take to ensure that the national soybean checkoff is accountable to soybean producers and spends their money prudently.