Plaintiffs’ Exhibit 16
Civ. No. 02-0265 (CKK)
DECLARATION OF MICHAEL MARKARIAN

I, MICHAEL MARKARIAN, hereby declare as follows:

1. I am Executive Vice President of The Humane Society of the United States, the lead plaintiff in the above-entitled action.

2. The HSUS is a nonprofit animal protection organization headquartered in Washington, DC, with seven regional offices across the country.

3. The HSUS has over nine and a half million members and constituents.

4. Since its inception in 1954, The HSUS has been actively involved in equine protection initiatives.

5. The HSUS has invested considerable organizational resources in public education, research and investigation, advocacy, legislation, and litigation concerning horse welfare and the prevention of horse slaughter.

6. The HSUS investigates horse cruelty complaints and offers individuals guidance and advice as to how to best care for their horses including how to prevent horses from being lost, stolen, or sold to "killer buyers," middlemen hired by the slaughterhouses to purchase horses for human food.
7. The HSUS actively collaborates with federal agencies to develop wild horse immunocontraception trials and field studies in order to reduce the wild horse population and reduce the need for the sale and subsequent slaughter of wild horses.

8. The HSUS has been active in strengthening provisions of the Horse Protection Act through strong advocacy in support of the American Horse Slaughter Prevention Act (H.R. 503 and S.1915) since its original introduction in 2002, and the Wild Horse Act that was introduced this Congress (H.R. 297 and S. 576).

9. The HSUS has assisted in the passage of state laws that ban horse slaughter or govern the treatment and transportation of horses sold for slaughter within their borders.

10. The HSUS advocated for the Commercial Transportation of Equines for Slaughter Act, passed by Congress in 1996.

11. Most recently, The HSUS worked with bipartisan leaders in Congress to pass the Amendment to the FY2006 Agriculture Appropriations Act that de-funded federal ante-mortem inspection of horses for slaughter.

12. Members of The HSUS reside in the communities where horse slaughtering plants are located, and are adversely affected by these operations. Over 355,000 of its members and constituents reside in Illinois and over 393,000 members and constituents reside in Texas. More specifically, nearly 300 members and constituents reside in Kaufman, Texas, home to the Dallas Crown, Inc. slaughter plant, 967 members and constituents reside in DeKalb, Illinois, home to the Cavel International slaughter plant, and over 15,000 members and constituents reside in Fort Worth, Texas, home to the Beltex Corporation slaughter plant.

13. For example, members of The HSUS who reside in Kaufman, Texas are adversely affected by Dallas Crown. Member Sharon Demaske, a resident of Kaufman for five years, has
been an HSUS member for five years. She is a horse owner and horse lover and is horrified that horses are being slaughtered near her home for food. She became a member of The HSUS because of her specific concern for horses and wild horses and would have commented on the USDA’s fee-for-service program if she had received advance notice to do so. Member Nadine Miller, a resident of Kaufman since 1994, has been an HSUS member for three years. She is an avid animal lover and believes all animals should be treated humanely and is appalled to live near a facility that slaughters horses. Diana Smith, long-time member of the HSUS, and nine year resident of Kaufman is an ardent horse lover and, in fact, owns six horses. She must drive by the Dallas Crown slaughter plant everyday and is deeply saddened to see the horses on the slaughter trucks entering the facility and being corralled in the holdings pens outside the plant.

14. Members of The HSUS who reside in Fort Worth, Texas are also adversely affected by the Beltex Corporation horse slaughter plant. Alice Lujan, a HSUS member for over five years and forty year resident of Fort Worth, is a horse lover and is very upset that horses are being slaughtered for human consumption near her home. She is upset that she did not have the opportunity to give her comments to the USDA before the agency issued the interim final rule allowing fee-for-service inspection. Longtime HSUS member Caron Byl has lived in Fort Worth for over twenty years. She lives near the Beltex slaughterhouse and every time she must drive by the plant, she sees between ten and thirty horses awaiting slaughter. Ms. Byl loves horses and seeing them waiting to be killed is unbearable. She wants the opportunity to be heard and believes the USDA violated her rights by not allowing her to comment on the new fee-for-service horse inspection program before it was adopted. HSUS member Mary Alice Palmer has lived in Fort Worth for most of her life. She has spent her whole life riding and showing horses
and has seen the double-decker trucks headed to the Beltex slaughtering facility. Ms. Palmer is appalled that horses are being slaughtered for consumption near her home.

15. Additionally, HSUS members residing in DeKalb, Illinois are adversely affected by the Cavel International horse slaughter plant. HSUS member Mary Farley has been living in the DeKalb area for over twenty years. Because she has been significantly impacted by the Cavel slaughterhouse, she is filing an individual declaration describing her injuries and interests. Longtime HSUS member Sandra Larkin has been a resident in DeKalb for the last thirteen years. Ms. Larkin is overwhelmed by the beauty of horses and finds them majestic and deserving of our respect. She is extremely upset that horses are being slaughtered near her home and is also concerned, as a homeowner, that the Cavel horse slaughter plant is reducing property values in her community. Had the USDA provided advance notice of the fee-for-inspection rule, she would have voiced these opinions. Rajinder Kumar, a member of The HSUS for close to fifteen years and a resident of DeKalb for twenty years, is a horse lover and is appalled and upset when he sees the double-decker trucks loaded with horses driving in his community. Longtime HSUS member and thirty-five year resident of DeKalb Viella Glidden finds horse slaughter for human consumption disgraceful and would have liked the opportunity to comment to the USDA. Gabriella La Piana has been a member of HSUS for nearly three years and has been a resident of DeKalb for thirty years. She is very upset that horse slaughter occurs near her home, and although her illness makes it difficult for her to get around, she would have made every effort to comment on the fee-for-inspection program had the USDA given advance warning.

16. Other members and staff of The HSUS own horses as companion animals and consider these animals as members of their families. They also enjoy observing, photographing, studying and otherwise appreciating companion horses and, thus, are also adversely affected by
commercial horse slaughter. There are many documented instances of companion horses being stolen and sold for slaughter, and HSUS members and staff that own horses are deeply concerned that their horses will face such a fate. This concern is particularly acute for those members and staff living in and around the three operational horse slaughter facilities. In fact, two HSUS members and horse owners in Kaufman, Texas, Diana Smith and Sharon Demaske, are fearful that their own horses will be stolen and taken to the local Dallas Crown plant for slaughter.

17. Members and staff of The HSUS who enjoy observing, photographing, studying and otherwise appreciating wild horses are also adversely affected by commercial horse slaughter. More than 2,500 wild horses have been slaughtered for human food in the last six years. Wild horses removed from the range by the Bureau of Land Management frequently end up being adopted by persons that subsequently sell the animals for slaughter. The commercial slaughter of horses for food creates a market for wild horses, and creates an incentive for both the fraudulent adoption of horses by persons intending to sell the animals for slaughter, and for the removal of additional wild horses from the range. In addition, the enjoyment of HSUS members in observing wild horses is greatly lessened when they know that the majestic animals they are observing may well end up in a slaughter facility and turned into meat.

18. The interests of The HSUS’s members described in the foregoing paragraphs are irreparably harmed by defendants’ decision to provide for a voluntary fee-for-service program under which establishments that slaughter horses will be able to apply for and pay for ante-mortem inspections, because this program will allow the Dallas Crown, Beltex, and DeKalb facilities to remain in operation. The injuries that HSUS members and staff have incurred, and will continue to incur, can not be calculated in financial terms or redressed by money damages.
19. Additionally, the ability of The HSUS and its members to engage in educational, legislative, and advocacy activities with respect to horse protection is injured by defendants’ failure to comply with the Administrative Procedure Act the National Environmental Policy Act. The HSUS also relies on this advance notice and information to communicate with its members, so that its members may in turn contact administrative agencies and elected representatives when advocating for the humane treatment of horses and other animals. The agency’s failure to provide such notice has forced The HSUS to expend resources that could have otherwise been devoted to promoting the humane treatment of wildlife, the sheltering of companion animals, and the protection of other animals in need.

20. By publishing a drastic regulatory change for the first time as an Interim Final Rule with the full force of law, and without first soliciting and responding to public comments, defendants have violated The HSUS’s and HSUS members’ statutory right to obtain from USDA information and advance notice about changes in the law, and to otherwise learn about and be able to participate in the rulemaking process before a Final Rule is settled.

21. These harms would be redressed if the Court were to declare that USDA’s decision to implement fee-for-service horse inspection is arbitrary and capricious, and not in accordance with the Administrative Procedure Act, Section 794 of the FY2006 Agriculture Appropriations Act, the Federal Meat Inspection Act, and the National Environmental Policy Act, set aside the Final Rule, and enjoin FSIS from accepting applications for fee-for-service slaughterhouse inspections.

Pursuant to 28 U.S.C., 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.
Dated: February 22, 2006

Michael Markarian