Suelee,

These are the main points I want you all to be aware of as you write the response.

General Comments:

In 2010 and 2011, as we were planning the GonaCon study in bison, I was in contact with our AgSAS person, Freeda Isaac, concerning the regs and how they were applied. In an email dated 4/02/2010, she informed me:

"Although naturally infected animals are not considered select agents themselves and not subject to the select agent regulations, once these animals are confirmed as positive for a select agent, any materials from these animals would be treated as select agent material. The infected cattle are considered the natural source of the Brucella and the materials from these animals are being intentionally collected. This is found in 9 CFR 121.3(d)(1). For example, blood, tissue specimens, urine, etc. would be subject to handling as select agent material. My understanding is these Idaho cattle have been confirmed for B. abortus by VS, therefore the materials from these cattle would need to be handled in accordance with the select agent requirements."

Later the same year, in an email dated 5/13/2010, she told me of a change in the way the regs were now being interpreted:
"As we had discussed over the phone several weeks ago, the Select Agent Program directors were meeting to discuss the issues related to naturally infected versus experimentally infected animals and the status of samples taken from these animals.
In our discussions, it was agreed upon that for naturally affected animals, samples taken from those animals would not be considered select agent material and required to be handled as restricted material until the sample was confirmed to have select agent material. For the issues you have raised below for the cattle you have, the samples may be handled as you have described and not subject to select agent requirements until the sample itself is confirmed positive for select agents."

We had initially planned to stockpile and freeze samples from the GonaCon study bison, so that the culture status of all the samples from the animals would remain unknown until the end of the study. However based on the 5/13/2010 email, and in a telephone consultation about the GonaCon study with Freeda Isaac on May 11, 2011, we were assured that we could sample seropositive naturally-infected animals time after time and submit diagnostic specimens to the lab for culture. We were assured that this field study, observing the disease in its natural environment, a bison population which contained both seropositive and seronegative animals, could be conducted in such a manner as to be fully compliant with the SA regs. That is what we did. We maintained naturally-infected animals and repeatedly obtained diagnostic specimens from these animals for culture. We shipped all diagnostic specimens for culture to the lab at once such that if any specimen from an animal was found culture positive, there was not an issue with other specimens from that animal being held. We never had possession of any known culture positive specimen or culture of *B. abortus* outside of the naturally-infected animal thus we were always in full compliance with the SA regs.
The elk study was commenced using undiagnosed elk fetuses only after consultation with AgSAS in February 2014. The fetuses were later submitted for culture. One was positive and one was negative. No natural (or experimental) transmission occurred.

Even according to the "Guidance on the Inventory of Select Agents and Toxins – 16 April 2015," we were still in full compliance. We never experimentally infected any animals with *B. abortus*. We have placed seropositive animals in the same pen with seronegative animals to observe whether or not natural transmission would occur. This was identical to the 6 year study we did in Yellowstone National Park observing whether or not and when transmission would occur between seropositive and seronegative animals.

Only in the Policy Statement dated August 18, 2017, which is obviously written after the fact to address our work, is there language of which we would have been in violation. At the time this statement was released, we had already interrupted both bison and elk studies and were in the process of killing research animals.

We consulted with AgSAS about these studies and purposed to remain in full compliance with the SA regs, as they were explained to us. That is what we did. On learning that the new interpretation of the regs put our protocols in question, we ended both studies.

Inaccuracies in the "Advisory Letter on Violations of the Select Agent Regulations" to Bev Schmitt dated August 17, 2017.

2nd paragraph: No individual has knowingly possessed or worked with *Brucella abortus*. Individuals have collected specimens from seropositive, naturally-infected animals, some of which have later proven to be culture positive. This same situation occurs routinely in packing houses and field operations. Hence, these individuals were not required to have approval or be registered to possess or use *B. abortus*.

3rd paragraph: No person knowingly had possession of *B. abortus*. They only handled naturally-infected animals and obtained diagnostic specimens of unknown culture status.

4th paragraph: NVSL was observing whether or not natural transmission occurred between seropositive and seronegative animals.

2nd page, #1. The elk were not purchased from Yellowstone National Park. Commercial elk were purchased from a breeder in Colorado and elk from the Greater Yellowstone Area were wild-caught in Wyoming with the cooperation and permission of Wyoming Game and Fish.

Jack