



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

October 29, 2004

Dr. Robert M. Gates, President
Texas A & M University
1246 TAMU
College Station, TX 77843-1246

Dear President Gates:

On behalf of the consumer group Public Citizen, I am writing to express our concern over the food irradiation facility located on Texas A & M University (TAMU) property that is being operated not only for research purposes, but which has apparently evolved into a for-profit commercial enterprise. We are asking your office to conduct an investigation into this matter. In addition, this issue could impact the selection of the new Vice Chancellor and Dean of Agriculture and Life Sciences for the University and we urge you to postpone any decision on that matter pending a full investigation into the commercial activities of the food irradiation facility.

As you know, the facility in question – the Texas A & M Electron Beam Food Research Facility – is administratively tied to TAMU's Institute of Food Science and Engineering.¹ The funding for the facility was originally provided by the Titan Corporation whose now-defunct subsidiary, the SureBeam Corporation, had entered into a strategic alliance with TAMU in 2000.²

In October 2000, there was an extensive article written in *Food Technology* that detailed the negotiations between TAMU and Titan/SureBeam regarding the strategic alliance.³ In that article, the purpose of the research facility and the interaction between TAMU staff and SureBeam personnel was explained as follows:

Texas A & M and SureBeam will share use of the facility. For every operating day (8 a.m. to 5 p.m.), university researchers will have exclusive use half of the time, and SureBeam the other half. The facility will be capable of operating 24 hours a day, but SureBeam will be limited to 10 out of every 24 hours, the other 14 being available to university researchers. SureBeam will also be limited in total production capacity to 25%, for market research purposes, to ensure that the facility remains a research-only pilot plant.⁴

¹ <http://ifse.tamu.edu/centers/ebeam.html>

² <http://www.titan.com/investor/archives/pressreleases/000615.html>

³ http://www.ift.org/publications/docshop/ft_shop/10-00/10_00_pdfs/10-00-p&t-proc.pdf

⁴ *Ibid.*, p. 97.

The *Food Technology* article also explained that one of the main reasons that TAMU was selected by SureBeam to enter into this strategic alliance was the presence of Dr. Elsa Murano on the TAMU faculty and her close ties with some of the officials at SureBeam.⁵ At the time of the negotiations, Dr. Murano served as the Director of the Center for Food Safety at the TAMU Institute of Food Science and Engineering.⁶ She also represented the university on the negotiations team that consummated the strategic alliance agreement with Titan/SureBeam.⁷ As you know, Dr. Murano is currently on leave of absence from the TAMU faculty because she is serving as the Undersecretary for Food Safety at the United States Department of Agriculture (USDA). It is our understanding that she is being considered for the position of Vice Chancellor and Dean of Agriculture and Life Sciences at TAMU.⁸

While the strategic alliance was hailed in some quarters, some TAMU officials expressed reservations. Specifically, Russell Brewer, the Director of Applied Research for the Texas Engineering Experiment Station stated the following concerns in an e-mail to Carol Cantrell, Assistant Vice Chancellor of the Texas Engineering Experiment Station:

SureBeam will be receiving economic benefit from money we make off this and they may bring in their customers and potential customers. This arrangement is new to me and I did not think System Policy allowed for such. It would seem that we are treating SureBeam with better terms than others and such is prohibited by State Law.⁹

On March 4, 2002, there was a formal ceremony at TAMU in which the Institute of Food Science and Engineering took ownership of the food irradiation research facility.¹⁰ The facility was fully operational in October 2002.¹¹

In 2003, the SureBeam Corporation – which had been spun off into its own separate entity by the Titan Corporation – became embroiled in a financial accounting controversy.¹² It has been reported that SureBeam’s relationship with TAMU was part of this controversy.¹³ Coincidentally, as news about SureBeam’s accounting problems began to surface, the Cooperative State Research, Education and Extension Service at USDA awarded TAMU an \$185,000 grant in July 2003 to establish a National Center for Electron Beam Research.¹⁴ The national center would be housed at the Institute of Food Science and Engineering food irradiation facility.¹⁵ In December 2003, Dr. Suresh Pillai was named the Center’s director.¹⁶ As was

⁵ Ibid., p. 98.

⁶ <http://www.usda.gov/agencies/gallery/murano.htm>

⁷ Food Technology article, p. 98.

⁸ <http://www.thebatt.com/news/2004/10/19/News/Murano.Named.Finalist.For.Agriculture.Vice.Chancellor-772507.shtml>

⁹ E-mail from Russell Brewer to Carol Cantrell, June 6, 2000, received as material from Freedom of Information Act request.

¹⁰ <http://www.landandlivestockpost.com/technology/040102foodirradiation.htm>

¹¹ <http://agnews.tamu.edu/dailynews/stories/AGPR/Nov1103a.htm>

¹² SureBeam press release, “SureBeam to Delay Earnings Announcement,” July 30, 2003.

¹³ Floyd Norris. “SureBeam Revenue Policy Questioned,” New York Times, August 27, 2003

¹⁴ <http://www.meatandpoultryonline.com/content/news/article.asp?docid={d63bd189-14d2-450d-b399-bd02eac5cbc6}>

¹⁵ Ibid.

¹⁶ <http://agnews.tamu.edu/dailynews/stories/AGPR/Dec2603a.htm>

explained in the TAMU press release announcing the grant, the purpose of the grant was three-fold:

...this new center will be dedicated to: [1] conducting research on electron beam technology for food and agricultural products, [2] hosting industrial, academic and government research programs, and [3] conducting outreach, training and education in the science & technology of electron beam irradiation.¹⁷

In a more recent Texas Agricultural Experiment Station publication, the purpose of the Center was explained as follows:

The on-campus irradiation facility, established in 2003, is a full-fledged USDA-FSIS inspected food processing facility authorized to conduct research using Class-2 pathogens. This allows scientists from academia, industry and governmental institutions to conduct food irradiation research projects under the most realistic food irradiation conditions.¹⁸

In January 2004, the SureBeam Corporation announced that it was ceasing operations and that it was filing for Chapter 7 bankruptcy protection in which it was going to liquidate all of its assets.¹⁹ Ironically, about this time, the National Center for Electron Beam Food Research had scheduled an international conference on food irradiation which it had to postpone (it was eventually held from March 30 through April 2, 2004).²⁰ When asked whether the Center's operations would be affected by the SureBeam bankruptcy, officials at TAMU stated:

"We don't foresee a major impact on our activities," said Suresh Pillai, director, National Center for Electron (sic) Food Research. "The Center is a federally funded project, and some of the planned research and all of the outreach activities will continue..."

The Electron Beam Food Research Facility is operated under the Institute of Food Science & Engineering. Mark McLellan, Institute of Food Science & Engineering director, said the Institute intends to fully cooperate with the bankruptcy court. "Even though SureBeam Corp. no longer exists we plan to retain the capacity of the electron beam technology and continue to be engaged in numerous contracts with the federal government and others regarding use of this technology," McLellan said.

At Texas A&M, SureBeam owned the linear acceleration technology used to irradiate products, Texas A&M owns the Electron Beam Food Research Facility itself. McLellan said the technical staff operating the facility are all A&M employees.

"We will be seeking relief and ownership of the equipment during the bankruptcy process," McLellan said.²¹

On August 12, 2004, USDA announced that it had awarded another \$328,357 for electron beam irradiation research to TAMU.²²

¹⁷ <http://www.meatandpoultryonline.com/content/news/article.asp?docid={d63bd189-14d2-450d-b399-bd02eac5cbc6}>

¹⁸ <http://taeswww.tamu.edu/FedInit/PDFs/EBeam2003.pdf>

¹⁹ http://www.signonsandiego.com/news/business/20040121-9999_1b21surebeam.html

²⁰ http://tti.tamu.edu/conferences/ebeam/eb_701.stm

²¹ <http://www.mnbeef.org/Updates/2004/FOOD%20IRRADIATION%20UPDATE%202.20.04.htm>

²² http://www.usda.gov/wps/portal/tut/p/_s.7_0_A/7_0_1OB/.cmd/ad/.ar/sa.retrievecontent/.c/6_2_1UH/.ce/7_2_5JM/p/5_2_4TQ/.d/5/_th/J_2_9D/_s.7_0_A/7_0_1OB?PC_7_2_5JM_contentid=2004%2F08%2F0330.xml&PC_7_2_5JM_navtype=RT&PC_7_2_5JM_parentnavid=LATEST_RELEASES&PC_7_2_5JM_navid=NEWS_RELEASE#7_2_5JM

On September 12, 2004, Mary Ellen Burris, Vice President for Consumer Affairs for Wegman's grocery stores, announced in her weekly column that Wegman's was going to resume offering irradiated frozen hamburger patties to consumers in the very near future. As she explained, the SureBeam bankruptcy had disrupted their supply of irradiated ground beef products, but they had now decided to offer irradiated hamburger patties processed by Huisken Meats that had contracted with TAMU to irradiate their products. She also noted that TAMU was using SureBeam equipment to irradiate the Huisken hamburger patties.²³ Although he would not disclose where he was getting his meat products irradiated, Cliff Albertson, general manager and chief operating officer of Huisken Meats, claimed that his firm was still irradiating "millions of pounds of beef" in a June 2004 trade publication.²⁴

On September 13, 2004, TAMU's Institute of Food Science and Engineering sent out letters and brochures to key food industry officials announcing a short course on food irradiation that will be offered from February 8-11, 2005, at the National Center for Electron Beam Food Research. In that letter, it was revealed that the National Center had processed some 3 million pounds of foods through commercial contracts, and advertised that commercial irradiation was available upon request.²⁵ If that figure is accurate, it would make the National Center one of the largest commercial food irradiators in the United States.

We have a number of questions about important issues for the future of the National Center for Electron Beam Food Research:

- 1) How much of the time is the National Center for Electron Beam Food Research irradiation facility being used for commercial purposes?
- 2) What other commercial contracts does the National Center for Electron Beam Food Research have?
- 3) Where do the proceeds from these commercial contracts go?
- 4) Is the federal government subsidizing a for-profit commercial food irradiation operation at TAMU?
- 5) To what extent is federal government funding filling the void left by SureBeam for costs of maintaining the irradiators and for research grants promised by SureBeam?
- 6) Is TAMU violating any local, state or federal laws, or permits by running a commercial food irradiation operation at a state university on state premises?
- 7) Is TAMU jeopardizing its property tax exemption under the Texas Property Tax Code by running a commercial operation on its premises?
- 8) What role did Dr. Elsa Murano, who has been an outspoken advocate of electron beam irradiation, or anyone else at the USDA have in setting up the commercial food irradiation operation at TAMU?
- 9) Is Huisken Meats benefiting financially from the arrangement with TAMU? If so, does that violate any state laws?
- 10) What is the status of the equipment that Titan/SureBeam donated to TAMU – will it be affected by the SureBeam bankruptcy proceedings?

²³ <http://www.wegmans.com/meb/columns/091804.asp>

²⁴ <http://www.nationalprovisioner.com/content.php?s=NP/2004/06&p=23>

²⁵ http://131.104.74.73/archives/fsnet/2004/9-2004/fsnet_sept_14.htm

I respectfully request that you look into these issues and to the extent they impact the potential selection of a new Vice Chancellor and Dean of Agriculture and Life Sciences at the University, we believe that an announcement about this position should be delayed pending your investigation.

I look forward to your response.

Sincerely,

Wenonah Hauter, Director
Public Citizen's Energy and Environment Program

cc: Senator Ted Stevens, Chairman, U.S. Senate Committee on Appropriations
Senator Robert Byrd, Ranking Member, U.S. Senate Committee on Appropriations
Congressman C.W. Bill Young, Chairman, U.S. House Committee on Appropriations
Congressman David Obey, Ranking Member, U.S. House Committee on Appropriations
Secretary Ann Veneman, United States Department of Agriculture
Undersecretary Joseph Jen, United States Department of Agriculture
Phyllis Fong, Inspector General, United States Department of Agriculture
Carole Keeton Strayhorn, Texas Comptroller of Public Accounts
Lowry Mays, Chairman of Texas A & M University System Board of Regents
Dr. Mark McClellan, Director of the Institute of Food Science and Engineering