



United States Department of Agriculture

Food Safety and
Inspection Service

Alameda District
800 Buchanan St.
Albany, CA 94710

Phone: (510) 769-
5712

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April 29, 2020

Mr. Mohammad Hilal Safi,
President
Al Anam Farms LLC
Establishment M/P 39894
1081 East Birch Road
Cochise, AZ 85606

CERTIFIED - RETURN
RECEIPT REQUESTED

Email: yahya_nasrat@hotmail.com

NOTICE OF SUSPENSION

Dear Mr. Safi:

This letter confirms the verbal notification provided to your establishment on April 28, 2020, by the Food and Safety Inspection Service (FSIS), Alameda District, of the of suspension of the assignment of inspectors at your establishment and the withholding of the marks of inspection for the slaughter operations, in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3(b). This action is initiated due to your firm's failure to maintain or implement required controls to prevent the inhumane handling and slaughtering of livestock at your establishment and to appropriately handle animals in accordance with Title 9 CFR 313.15(a)(1) and Title 9 CFR 313.15(b)(1)(iv). This is in violation of 21 U.S.C. 603(b) of the Federal Meat Inspection Act, the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 USC 603 et seq.) provides for preventing the inhumane slaughtering of livestock that FSIS has the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examine and inspect the method by which cattle, sheep, swine, goats, horses, mules or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under the Act. FSIS may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughter establishment if FSIS finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with sections 1901 to 1906 of U.S.C Title 7 until the establishment furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such a method.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Title 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in Title 9 CFR Part 500. The Rules of Practice describe the types of enforcement actions that FSIS may take and include procedures for taking a withholding action and or suspension, with or without prior notification, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

Findings and Basis for Action:

On April 28, 2020, while observing the slaughter processes at Establishment M/P 39894, the FSIS Consumer Safety Inspector (CSI) observed that the establishment failed multiple times to effectively stun a cow with a hand-held captive bolt gun.

The CSI observed a red roan beef cow being driving into the cattle knock box and observed Mr. Yahya Stanikzai, Plant Manager/HACCP Coordinator, fire the captive bolt device into the animal's forehead. The animal took a few steps backwards but remained alert and standing, rhythmically breathing and its eyes tracking movement.

Mr. Stanikzai picked up the backup captive bolt device and fired it into the animal's forehead. However, this second stunning attempt was again unsuccessful, as the animal continued to remain standing on all four legs, was alert and rhythmically breathing, with its eyes continuing to track movement. Blood dripped from the animal's forehead as it remained standing.

Mr. Stanikzai then made a third attempt to stun the animal by reloading the backup captive bolt device and again firing into the animal's forehead. The animal went down on all four legs and was finally rendered unconscious. The SPHV immediately placed U.S. Rejected tag #B37528681 on the cattle knock box and notified Mr. Stanikzai of the regulatory control action.

In reviewing the skull, the CSI noted that at least one of the stun holes of the forehead was out of range of the optimal target zone for captive bolt stunning. The SPHV informed Mr. Stanikzai of this incident and took regulatory control action in accordance with Title 9 CFR 313.50(c) and 500.2, halting further slaughter operations.

This is an egregious act of inhumane handling of animals in connection with slaughter, as this animal was not stunned and rendered unconscious immediately. Your establishment does not operate with a Robust Systematic Approach to humane handling and slaughter, and your recent noncompliances to Title 9 CFR 313.15 for ineffective stunning of cattle indicate that this has been a chronic concern at your establishment.

This is an egregious noncompliance of 9 CFR 313.15(a)(1), which states in part, "*The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut.*" In addition, Title 9 CFR 313.15 (b)(1)(iv) states "*The stunning operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness. He must use the correct*

detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results.” This constitutes failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b), the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where animals have not been handled in a humane manner as described in 7 U.S.C. 1901 where it states, *“It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.”* In accordance with Title 9 CFR 500.3(b), the suspension of inspection at an establishment without prior notification for inhumane handling practices is warranted, as specified in Title 9 CFR 313 and under authority of 21 U.S.C. 621.

Recently, FSIS in-plant personnel (IPP) have issued to your facility non-compliance records (NRs) and documented Memorandum of Interview (MOI) related to humane handling. Several of these documents discuss similar findings of ineffective initial stunning attempts.

- NR JLH4409041809N/1 issued on April 9, 2020, due to failure to produce immediate unconsciousness (captive bolt) in accordance with Title 9 CFR 313.15(a)(1).
- NR JLH1713045621N/1 issued on April 21, 2020, due to failure to maintain livestock pens, driveways and ramps in good repair in accordance with Title 9 CFR 313.1.
- Memorandum of Interview (MOI) JLH0713042421G issued on April 21, 2020, to discuss with the firm that effective initial stuns are necessary to demonstrate regulatory compliance with humane slaughter.
- NR JLH4707025527N/1 issued on February 27, 2020 due to failure to maintain livestock pens, driveways and ramps in good repair in accordance with Title 9 CFR 313.1.

Previously on August 29, 2019, the Alameda District Office notified your establishment of the withholding of the marks of inspection and suspension of the assignment of inspectors at your facility in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3(b). This action was initiated due to your firm’s similar failure to maintain or implement required controls to prevent the inhumane handling and slaughter of livestock at your establishment and to appropriately handle animals in accordance with Title 9 CFR 313.15(a)(1) and Title 9 CFR 313.15(b)(1)(iv). This is in violation of 21 U.S.C. 603(b) of the Federal Meat Inspection Act, the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder.

FSIS personnel’s observations on April 28, 2020, of inhumane handling at your facility, raise concerns regarding your ability to prevent the inhumane handling and slaughtering of livestock at your facility and to adhere to the regulatory requirements.

Based on the above findings and your failure to meet statutory and regulatory requirements for the humane handling and slaughter of livestock, and in accordance with Title 9 CFR 500.3(b), FSIS is suspending the assignment of inspectors and withholding the marks of inspection for the slaughter operations at your establishment. This letter confirms the verbal notification of the

suspension of the assignment of inspectors for the slaughter operations that FSIS provided to your establishment on April 28, 2020.

The suspension of the assignment of inspectors will remain in effect until you can proffer to the FSIS, Alameda District Office, adequate written assurances including corrective actions and preventative measures to assure that livestock at your establishment are handled and slaughtered humanely, in accordance with the FMIA, The Humane Methods of Slaughter Act, and regulations promulgated thereunder.

In addition, failure to respond to this Notice of Suspension and failure to assure that animals at your establishment are handled and slaughtered humanely in accordance with the statutory and regulatory requirements may result in further administrative enforcement actions.

In accordance with Title 9 CFR 500.5(a)(5), you may appeal this action by contacting:

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Paul Wolseley /Executive Associate for Regulatory Operations
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

In accordance with 9 CFR 500.5(d), you may request a hearing concerning this action by contacting:

Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 9-235A
1400 Independence Avenue, SW
Washington, DC 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

If you have any questions, please call the Alameda District Office at (510) 769-5712.

Sincerely,

*/s/ Virginia Felix, DDM
(for)*

Yudhbir Sharma, DVM
District Manager

cc:

A. Amin, DDM
S. Beckett, DDM
V. Felix, DDM
F. Gillis, DDM

(b) (6)

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P. Wolseley, EARO
S. Baucher, IEA, RD
USDA IIC, Est. M/P39894
FO/QR