



United States Department of Agriculture

Food Safety and
Inspection Service

Alameda District
800 Buchanan St.
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

April 30, 2021

Mr. Frank Lopes, CEO
Western Meat Processing, Inc.
Est. 44824 M
725 Zeff Road
Modesto, CA 95351
frank@westernmeat.net

**CERTIFIED RETURN
RECEIPT REQUESTED**

E-mail:

(b) (6)

(b) (6)

NOTICE OF SUSPENSION

Dear Mr. Lopes:

This letter confirms the verbal notification that was provided to your establishment on April 29, 2021, by the Food Safety and Inspection Service (FSIS), Alameda District, of the withholding of the marks of inspection and the suspension of the assignment of inspectors for the Slaughter operations at your establishment 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 treatment and handling of livestock in connection with slaughter, at your establishment and to appropriately handle a disabled animal in accordance with Title 9 CFR Part 313.2(d)(2). This is a noncompliance with 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 the purpose of 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 29, 2021 at approximately 12:00 pm, the FSIS Consumer Safety Inspector (CSI) observed your establishment's failure to conduct handling and the humane treatment of livestock in accordance with the regulatory requirements. The CSI, accompanied by your Quality Assurance (QA) supervisor, came upon (b) (6) dragging a conscious, non-ambulatory Jersey cow by its tail through the rear of the trailer and out onto the concrete unloading floor, dropping the cow onto the ground. The cow was in the rear of the trailer, approximately 2 feet inside on the trailer's floor, as the trailer was next to the first partition gate. The cow was laying on her side and did not attempt to rise after being removed from the trailer. The trailer was approximately four inches above the concrete unloading floor. An establishment employee was observing the unloading procedures.

The CSI immediately stopped unloading operations of the remaining animals and applied U.S. Rejected tag #B45004643 to the main receiving/unloading gate. Your Kill Floor supervisor came over and euthanized the cow immediately with a hand-held captive bolt gun. After this, the remaining cattle on the trailer were unloaded appropriately.

The CSI notified (b) (6) of these noncompliance findings with the inhumane handling of livestock and the FSIS withholding action taken at your establishment.

This is an egregious act of inhumane handling of animals in connection with slaughter, as the cattle hauler failed to move a disabled non-ambulatory animal appropriately. Your establishment does not currently have a Robust Systematic Approach for humane handling and slaughter of livestock.

This is a violation of Title 9 CFR 313.2(d)(2), which states, "*The dragging of disabled animals and other animals unable to move, while conscious, is prohibited.*" 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.

These findings demonstrate your 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) and the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

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 29, 2021.

The suspension of the assignment of inspectors will remain in effect until such time as 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:

Karen Hunter
Acting Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 3154, South Building
Washington, DC 20250
Phone: (202) 499-0275

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

Scott C. Safian, Branch Chief
Enforcement Operations Branch
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/ Abdalla Amin,
Deputy District Manager
(for)*

William Griffin
District Manager

cc:

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

(b) (6)

K. Hunter, Acting EARO
S. Baucher, IEA, RD
USDA IIC, Est. M 44824
FO/QR