United State Department of Agriculture
Food Safety and Inspection Service
Office of Field Operations
Chicago District Office
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January 16, 2023

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Mr. Brian Winner, Owner
Robert Winner & Sons, Inc.
Est. M21572
8544 St. Rt. 705
Yorkshire, Ohio 45388

NOTICE OF SUSPENSION HELD IN ABEYANCE

Dear Mr. Winner:

This letter confirms verbal notification provided to Mr. Will Winner, Production Manager, by Dr. Tamara Davis, Deputy District Manager, on January 16, 2023, of the Food Safety and Inspection Service's (FSIS) decision to place the Notice of Suspension (NOS) dated January 16, 2023, into abeyance. This action is based on the review, analysis, and acceptance of your proposed corrective actions and preventive measures submitted to the FSIS Chicago District Office on January 16, 2023.

Background

On January 16, 2023, at approximately 0900 hours, the FSIS Supervisory Public Health Veterinarian (SPHV) described the following humane handling incident. While on the kill floor, the SPHV and the Consumer Safety Inspector (CSI) were alerted to the scald tank when the production manager, after hearing squealing inside the scald tank, lifted the lid on the tank to reveal a market hog inside the tank squealing, thrashing, and rapidly blinking its eyes. The production manager re-stuck the hog with a knife while it was in the scald tank. The squealing, thrashing, and rapid blinking then subsided, and the hog was insensible shortly thereafter. The CSI took regulatory control of the process and placed U.S. Rejected tag number B35668535 on the knocking area.

Although you maintain a written animal welfare program that meets the criteria for robustness, your actions immediately after discovering the live hog in the scalder were not consistent with your written plan. As such, regulatory discretion was not offered, and an NOS was issued.

Within the NOS, the FSIS Chicago District Office requested that you submit a written response with corrective actions to address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

Corrective Actions

On January 16, 2023, the FSIS Chicago District Office received your initial written response as requested. After a review and evaluation, the District Veterinary Medical Specialist (DVMS) notified you, via email, that the proposed corrective actions lacked sufficient detail from which the Chicago District could conclude the corrective actions would serve to restore and maintain regulatory compliance as required. The email identified your response as inadequate and specifically requested the additional details and information necessary to meet those requirements. Later that same day, you provided a revised response to include the additional details requested.

Specifically, you identified a market hog had been head-only electrically stunned, shackled, hoisted, and stuck to initiate exsanguination. The hog was then lowered into the scalder, and the lid closed. The production manager heard the animal vocalize from inside the scalder, opened the lid, observed the conscious animal, and stuck the animal again as the hog died. You concluded the cause was not enough time was allowed for the market hog to bleed-out to a point where it could not recover. You propose the following corrective actions.

You will make certain that all knifes used for sticking are not less than 120 mm in length. You will revise the stunning procedure from (b) (4) ,

(b) (4)

(b) (4)

To verify these corrective actions are effective, you have included stunning verification monitoring as a slaughter process CCP. You will document the results of stunning verification monitoring at a frequency of (b) (4) hogs on any swine slaughter day. You will document the results of stunning and the CCP form identifies corrective actions to identify the cause of deviations and restore compliance if required.

After a review and analysis of your proposed corrective actions, the FSIS Chicago District Office has concluded that these activities, provided they are successfully implemented, will serve to adequately address the regulatory requirements identified within the NOS.

Summary and Conclusion

This letter serves as written notification that FSIS is placing the suspension of the assignment of inspection program personnel (IPP) at your establishment into abeyance. The abeyance will remain in effect until your proposed corrective actions have been verified to be successfully implemented on a consistent and continuous basis. The corrective actions you proposed will be subject to verification by FSIS IPP. These verification activities will serve to assess the implementation of the corrective actions and the requirement to maintain compliance with the FMIA, HMSA, and all applicable FSIS regulations.

FSIS is committed to monitoring establishments' operations to verify compliance with the regulatory requirements. To assist in those verification activities as a contingency of abeyance, FSIS has developed a Verification Plan Report (VPR) based on your corrective actions. The VPR will be completed by FSIS IPP as a means to document the implementation of the corrective actions throughout the abeyance period. The VPR identifies specific elements of your corrective actions and the associated regulatory requirements. These will be subject to verification until FSIS has made the determination that your establishment has effectively implemented these corrective actions. Additionally, during the abeyance period, humane handling verification visits (HHVV) will be conducted at 30-day intervals to assess your progress in

implementing the corrective actions. FSIS verification includes the expectation that you meet any time associated commitments identified within your proposal. Should your establishment fail to operate in accordance with these commitments or fail to comply with the regulatory requirements, FSIS will take immediate and appropriate regulatory control actions.

You are reminded that as an operator of a federally inspected facility, you are expected to fully comply with all FSIS regulations and to take appropriate corrective actions to prevent the inhumane treatment and slaughter of livestock. The HMSA, Sections 1901, 1902, and 1906, state that the slaughtering and handling of livestock are to be carried out only by humane methods. 9 CFR 313 contains the FSIS regulatory requirements that were promulgated based on the HMSA and the FMIA. It is fully expected that you comply with the HMSA, FMIA, and the regulatory requirements of Part 313, and that you carry out each of the corrective and preventive actions you proposed in response to the egregious incident. Failure to comply could result in the reinstatement of suspension at your facility or other appropriate administrative or legal actions. We urge your cooperation and voluntary compliance.

If you have questions regarding this matter, you may contact (b) (6) District Veterinary Medical Specialist (DVMS), at (b) (6); (b) (6) DVMS, at (b) (6), or you may contact this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

TAMARA DAVIS Digitally signed by TAMARA DAVIS Date: 2023.01.16 16:16:42 -06'00' / For

Dr. Donald B. Fickey
District Manager
FSIS Chicago District