



January 30, 2024

North Bay Butchers, LLC
Establishment M47592
6900 Chileno Valley Road
Petaluma, California 94952
Email: james@northbaybutchers.com
Telephone: 415-328-3429

ELECTRONIC MAIL on January 30, 2024

Attention: Mr. James Stoll, Owner

NOTICE OF INTENDED ENFORCEMENT

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our intent to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP), with prior oral notification, for your Slaughter Hazard Analysis and Critical Control Point (HACCP) processes at North Bay Butchers, LLC, Establishment 47592M, located at 4472 Manor Lane, Petaluma, California 94954.

This letter follows verbal notification of the Notice of Intended Enforcement provided to you by Mr. Frank Gillis, Deputy District Manager (DDM), at approximately 10:00am, on Monday, January 29, 2024. The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely in accordance with Title 9 CFR 313.15(a)(1). The evidence of egregious inhumane handling demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements (9 CFR Part 313).

Background / Authority

The Federal Meat Inspection Act (FMIA) (21 USC 601 *et. seq*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

The HMSA provides that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in

slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. 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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings / Basis for Action

On January 29, 2024, the FSIS Supervisory Public Health Veterinarian (SPHV) and FSIS Consumer Safety Inspector (CSI) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 0913 hours, they observed a mature, horned, beef bull calmly loaded into the knock box. While in the head catch, the bull moved its head in circles. While the bull was still moving, the stun operator, (b) (6), fired a handheld captive bolt (HHCB) device that contacted the bull's skull. The bull remained standing but stopped moving his head. The SPHV observed the bull blinking and eye tracking. Immediately, (b) (6) reloaded the HHCB and applied a second stun to the bull. The bull remained standing. The SPHV observed the bull was eye tracking, blinking, and blood was streaming from the nostrils. The bull began to aim its horns towards the stunner in a defensive manner. (b) (6) immediately grabbed the rifle next to him and shot the bull twice while the CSI and SPHV stood in the safety zone without a clear visual of the bull. After the final shot, the SPHV approached the bull and saw it was on its knees, without eye movement, and jaw relaxed. The bull was rendered insensible and remained unconscious. Approximately 30 seconds passed between the first knock with the HHCB and the rifle stun that rendered the bull insensible. The knock box was rejected (NOB41802227) so no further slaughter could occur, and the Alameda District Office was notified via supervisory channels. After the establishment skinned the head, the SPHV observed four entry holes. Two were from the captive bolt and approximately 3 mm apart. Approximately 2cm dorsal were two overlapping holes from the rifle. Drawing a line from the medial canthus of the eye to the horn, the captive bolt holes were approximately 15cm away from the medial canthus of the eyes.

This is an egregious noncompliance of humane handling of animals in connection with slaughter. This is a violation in accordance with Title 9 CFR 313.15(a)(1) which states, "*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. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*"

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.

On September 9, 2004, FSIS published *"Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements"* in the Federal Register Notice (54 Fed. Reg. 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, *"Humane Handling and Slaughter of Livestock."* Additionally, on October 23, 2013, FSIS introduced new guidance, titled *"FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock"* within the guidance material intended to better ensure the humane treatment of livestock presented for slaughter. The compliance guide provides a set of practices designed to minimize excitement, discomfort, and accidental injury of livestock. These documents describe the four components of a robust systematic approach to humane handling. The decision to issue a Notice of Intended Enforcement (NOIE) in lieu of a Notice of Suspension (NOS) is based on your establishment implementing and maintaining a robust systematic approach to humane handling.

Conclusion

In accordance with the Rules of Practice specified in 9 CFR Part 500.3(b), FSIS is notifying you of our intent to withhold the marks of inspection and suspend the assignment of FSIS inspectors from your Slaughter HACCP processes.

Please provide this office with a written response, concerning this NOIE within three (3) business days from the date of your receipt of this letter, no later than close of business on Thursday, February 1, 2024, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature and cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of or adulterated products at your establishment.

You may submit your response by fax to (844) 622-0081, or by electronic mail (AlamedaDistrictOffice@usda.gov). In accordance with Title 9 CFR 500.5(b)(4), you may contest the basis for this proposed action by contacting:

Mr. James Stoll, Owner
North Bay Butchers, LLC Est 47592M

Notice of Intended Enforcement
January 30, 2024

Sherri Johnson, Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
SB, Room 3162
Washington, DC 20250
Email: sherri.johnson@usda.gov
Phone: (b) (6)

If you have any questions, please call the Alameda District Office at (510) 769-5712, by fax at (844) 622-0081, or via electronic mail at AlamedaDistrictOffice@usda.gov.

Sincerely,

/s/ Frank Gillis
Deputy District Manager
(for)

Gabrial Eddings, DVM, DACVPM
District Manager

cc: S. Johnson, EARO
(b) (6), Humane Handling Enforcement Coordinator
S. Smith, OIEA Regional Director
G. Abreu, DDM
F. Gillis, DDM
V. Felix, DDM
(b) (6), SEIAO
(b) (6) DCS
(b) (6), DVMS
(b) (6), FLS
(b) (6) EIAO
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