



December 22, 2023

Premium California Foods  
Establishment M47612  
5881 N. Winton Way  
Winton, CA 95388

ELECTRONIC MAIL on December 22, 2023

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Attention: Mr. Ping Lau, President

### **NOTICE OF SUSPENSION**

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Premium California Foods. Establishment M47612, located at 5881 N. Winton Way, Winton, California 95388. This letter follows verbal notification of the suspension action, provided by Dr. Virginia Felix, Deputy District Manager (DDM), to you at approximately 8:40 pm on December 21, 2023. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

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 313.2(b). 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 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 December 21, 2023, the FSIS Supervisory Public Health Veterinarian (SPHV) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 1330 hours, while performing a routine PHIS Livestock Humane Handling Task, the SPHV walked towards the antemortem pens area and observed an establishment employee standing on a platform adjacent to a concrete ramp leading to the knocking box. The employee was using an electric prod multiple times on a live steer that was non-ambulatory and in sternal recumbency on the concrete ramp. The employee was excessively prodding the animal in an effort to force it to rise; the SPHV directly observed at least six times that the employee was continuously and repeatedly prodding the animal on the back even though it showed inability to rise and ambulate.

Each time it was prodded, the animal displayed spasmic movement in its head and legs as it tried to get up but was unable to rise.

The SPHV immediately headed to the knocking box area and instructed the employee to stop these actions. The employee then used a paddle to continue trying to make the animal get up. The SPHV observed the animal in acute distress. It was moving its head continuously and in all directions, and blood was streaming from the nostrils and mouth. There was also blood spread all over its back. The SPHV observed the animal showing discomfort and having labored breathing.

The SPHV asked the employee to stop touching the animal and went to contact the Front line Supervisor (FLS) and also inform the Consumer Safety Inspector (CSI) on site. The CSI also made the same observations as the SPHV of the animal in distress.

Per discussion with the FLS, the CSI placed U.S. Rejected Tag #B45617772 to the knocking box so no further slaughter could occur due to the inhumane handling of livestock. The CSI notified Mr. Alberto Cuevas, Plant Manager, and (b) (6), Slaughter Supervisor, of this action.

Excessively applying an electric handheld prod to an animal that is non-ambulatory is an egregious noncompliance of humane handling of animals in connection with slaughter. This is a violation in accordance with Title 9 CFR 313.2(b) which states, *“Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, 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.

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 (69 FR 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 is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. You do not currently maintain a written humane handling program for consideration.

### **Summary and Conclusion**

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.2(b), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, 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. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

### **Appeal and Hearing Rights**

You have the right to appeal this matter and can do so by contacting:

Sherry 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: [sherry.johnson@usda.gov](mailto:sherry.johnson@usda.gov)  
Phone: (b) (6)

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. Should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, please contact:

Scott C. Safian, Director  
Enforcement Operations Staff (EOS)  
Office of Investigation, Enforcement and Audit (OIEA)  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Stop Code 3753, SB - Room 2148  
Washington, DC 20250  
Telephone: (202) 418-8872  
Facsimile: (202) 245-5097  
E-mail: [AEBCorrespondence@usda.gov](mailto:AEBCorrespondence@usda.gov)

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](mailto:AlamedaDistrictOffice@usda.gov).

Mr. Ping Lau, President  
Premium California Foods, Est. M47612

Notice of Suspension  
December 22, 2023

Sincerely,

*/s/ Virginia Felix, DVM  
Deputy District Manager  
for*

Frank Gillis  
Acting District Manager

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