



April 4, 2018

Food Safety and  
Inspection Service

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712  
Fax: (510) 337-5081

Mr. Javier Juarez, Owner  
JJ Meat Company  
Est. M4969  
25699 Ave. 5 1/2  
Madera, CA 93637

**CERTIFIED RETURN  
RECEIPT REQUESTED**

*E-mail: [jjmeats@live.com](mailto:jjmeats@live.com)*

## **NOTICE OF SUSPENSION**

Dear Mr. Juarez:

This letter confirms the verbal notification provided to your establishment on April 3, 2018, by the Food Safety and Inspection Service (FSIS), Alameda District of the 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 was 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 Part 313.15(a)(1), 313.15(a)(3) and 313.15(b)(1)(ii). 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 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 Regulations 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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 3, 2018, at approximately 1602 hours, while walking to the kill floor at Est. 4969 to conduct animal dispositions, the FSIS Supervisory Public Health Veterinarian (SPHV) observed the Pen Foreman lead a walking calf into the knock box. Subsequently, the SPHV heard the mushroom stunner operate and the calf put into the blood pit. The SPHV continued to the kill floor and observed approximately 15 calves in lateral position in the blood pit. While on the kill floor, the SPHV heard a calf in the blood pit vocalize and turned around and observed a Holstein calf right itself from a lateral position onto all four limbs in an attempt to stand. The SPHV observed the calf holding its head up and aware of its surrounding. (b) (6) proceeded to brush his hands across the animal's neck; however, the calf did not fall laterally but instead was able to hold itself upright. The SPHV walked over to the blood pit and observed the plant employee pick up the calf and place the animal back in the knock box for the Pen Foreman to apply a second stun. The SPHV observed the second stun rendered the calf unconscious.

This is an egregious act of inhumane handling of animals in connection with slaughter, as the calf was initially stunned but did not remain unconscious after stunning, and was vocalizing and trying to lift itself up. Your establishment does not have a robust Systematic Approach to the humane handling of livestock at this time.

The SPHV then took regulatory control action by tagging the knock box with US Rejected tag B39697449. The SPHV notified Mr. Javier Juarez Jr., Plant Manager, of this inhumane handling incident and of the withholding action taken at the establishment. Mr. Juarez then informed the SPHV that the stunner in use was not the same one used the week prior and that the previous stunner is currently being repaired. Mr. Juarez informed the SPHV that they had ordered a new stunner that may arrive on April 5, 2018.

Previously, FSIS personnel have discussed with your plant management concerns with stunning equipment during establishment meetings with FSIS inspection personnel. FSIS inspection personnel documented in FSIS Memorandum of Interviews (MOIs) dated December 28, 2017, January 12, 2018, and January 24, 2018, that your establishment management had informed FSIS you are working on repairs for the stunning equipment. In addition, as noted in FSIS MOI dated March 12, 2018, during slaughter operations on March 2, 2018, FSIS personnel observed that your Pen Foreman informed Mr. Juarez that the stunner pressure was starting to become lower than usual. Furthermore, as noted in FSIS MOI dated March 19, 2018, the SPHV and Frontline Supervisor (FLS), discussed with your plant management maintaining your knocking device to prevent ineffective stunning. Despite these repeated discussions with your plant management regarding maintenance and repairs of stunning equipment, your establishment failed to implement procedures to prevent ineffective stunning that resulted in your establishment's inhumane handling of animals.

This is a violation of Title 9 CFR 313.15(a)(3) which states, "*Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this*

*conditions throughout shackling, sticking, and bleeding.” In addition, Title 9 CFR 313.15(a)(1) states that “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, case, or cut.” As outlined in Title 9 CFR 313.15(b)(1)(i), the regulatory requirement states, “Acceptable captive bolt stunning instruments may be either skull penetrating or nonpenetrating. The latter type is also described as a concussion or mushroom type stunner.”*

Furthermore, your establishment failed to meet Title 9 CFR 313.15(b)(1)(ii) which states, “*To assure uniform unconsciousness with every blow, compressed air devices must be equipped to deliver the necessary constant air pressure and must have accurate, constantly operating air pressure gauges....Stunning instruments must be maintained in good repair.*”

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 failures 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 3, 2018.

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:

Keith Gilmore  
Executive Associate for Regulatory Operations  
210 Walnut Street  
Room 923  
Des Moines, IA 50309  
Phone: 515-727-8970

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

Scott C. Safian, Director  
Food Safety and Inspection Service  
Office of Investigation, Enforcement and Audit  
Enforcement and Litigation Division  
Stop Code 3753, PP3, Cubicle 8-235A  
1400 Independence Avenue, SW  
Washington, D.C. 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

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

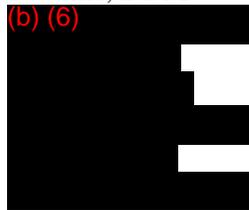
Sincerely,

***/s/ Sheryl Beckett, DDM  
(for)***

Yudhbir Sharma, DVM  
District Manager

cc:

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

(b) (6)  


K. Gilmore, EARO  
S. Baucher, RD/OIEA

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