



Food Safety and
Inspection Service

August 17, 2020

Alameda District
800 Buchanan St.
Albany, CA 94710

Phone: (510) 769-5712
Fax: (844) 622-0081

Mr. Rick Stott, CEO
Ellensburg Lamb Co., Inc.
dba Superior Farms
Establishment M2800
PO BOX 940
Dixon, CA 95620

CERTIFIED RETURN
RECEIPT REQUESTED

E-mail: rick.stott@superiorfarms.com

(b) (6)

Amended

NOTICE OF INTENDED ENFORCEMENT

Dear Mr. Stott:

This letter serves as an official notification by the Food Safety and Inspection Service (FSIS), Alameda District, of our intent to withhold the marks of inspection and suspend 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 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 313.15(a)(1). 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 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 August 12, 2020, at approximately 0930 hours, the assigned Supervisory Public Health Veterinarian (SPHV), went to the U.S. Suspect pen in the barn at the establishment to check on two nonambulatory sheep. The SPHV observed both sheep were in a sternal recumbent position with heads up and alert. The SPHV took the temperature of the first animal and the temperature was 106.5°F. The SPHV condemned this animal in accordance with Title 9 CFR 309.3(c). (b) (6), loaded the primary captive bolt gun and back up captive bolt gun to euthanize the condemned sheep in the holding pen. After (b) (6) applied the first stunning blow to the condemned sheep, the animal's head remained upright, and the animal was looking around. (b) (6) applied a second stun with the back up captive bolt gun and the animal's head remained upright. (b) (6) reloaded both captive bolt guns and administered a third stun. Following the third stun, the animal's head remained upright, and it voluntarily moved its legs in an effort to move away. There was blood coming from the animal's nose. After several more stun attempts, the animal was rendered unconscious.

This is an egregious act of inhumane handling of animals in connection with slaughter, as this sheep was not rendered insensible upon the initial stun, and required multiple additional stunning blows until the animal was effectively rendered unconscious.

This is a violation of Title 9 CFR 313.15(a)(1) which states in part: *"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."* 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 SPHV took regulatory control action and applied U.S. Rejected Tag #B19023573 to the restraining box and notified (b) (6) of these observations of inhumane handling and the regulatory control action taken by FSIS.

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 August 15, 2011, FSIS released FSIS Directive 6900.2 Revision 2, 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.

Please provide this office with a written response to this NOIE within three (3) working days from the date of your receipt of this letter. We will determine further action, if any, based on your response. In addition, failure to respond to this NOIE and failure to assure that you handle and slaughter animals at your establishment humanely, in accordance with the statutory and regulatory requirements, may result in further administrative enforcement actions.

In accordance with Title 9 CFR 500.5(b)(4), you may contest the basis for this proposed action by contacting:

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Paul Wolseley/Executive Associate for Regulatory Operations
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

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

Sincerely,

/s/ Sheryl Beckett, DVM
Deputy District Manager
(for)

Yudhbir Sharma, DVM
District Manager

cc:

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

(b) (6)



P. Wolseley, EARO
S. Baucher, IEA, RD
USDA IIC, Est. M2800
FO/QR