



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Alameda District #1
620 Central Avenue, Bldg. 2C
Alameda, California 94501

August 19, 2012

Mr. (b)(6)(b)(7)(C), General Manager
Central Valley Meat Co. Inc., Inc.
Establishment 06063A M
10431 8-3/4 Avenue
Hanford, CA 93230

**CERTIFIED - RETURN
RECEIPT REQUESTED**

Facsimile: (559) 583-0358

NOTICE OF SUSPENSION

Dear Mr. (b)(6)(b)(7)(C):

This letter confirms the verbal notification provided to you on August 19, 2012, by the Food Safety Inspection Service (FSIS), Alameda District of the withholding of the marks of inspection and the suspension of the assignment of inspectors at your establishment, in accordance with Title 9 Code of Federal Regulations (CFR) Part 500.3 (b). This action is initiated based on your establishment's failure to maintain or implement required controls to prevent inhumane handling and slaughtering of livestock for human food consumption at your establishment in accordance with Title 9 CFR 313.2. This is in violation of 21 U.S.C. 603 (b) of the Federal Meat Inspection Act, and the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder. In addition, your establishment is a supplier of the National School Lunch Program and therefore, must demonstrate total and complete compliance with all the rules and regulations including the Humane Handling regulations prescribed by U.S. Department of Agriculture (USDA). Your establishment failed to abide by and adhere to the rules and regulations promulgated under the Federal Meat Inspection Act and the Humane Methods of Slaughter Act of 1978.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) provides that it is essential in the public interest that the health and welfare of consumers be protected, by assuring that meat products distributed to them are wholesome, not adulterated, and properly marked, labeled and packaged. This Act gives FSIS the authority, as designated by the Secretary of Department of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments. The Act also provides FSIS program employee the authority to refuse to allow meat or meat food products to be labeled, marked, stamped, or tagged as "inspected and passed" and to prevent the entry of products into commerce when the sanitary conditions of any such establishment are such that rendered product adulterated and provided definitions for the term "adulterated." Furthermore, the Act provides FSIS the authority to appoint inspectors from time to time to examine and inspect products, including the sanitary conditions of facilities. The Act

also gives FSIS program employee the right to examine and inspect all carcasses and parts of carcasses that are further treated and prepared and the right to access and examine establishment records. When the sanitary conditions of a facility are not properly maintained, FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment provided the establishment is afforded the right to an administrative hearing.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where cattle 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."*

Under the authorities of the Act, FSIS has prescribed rules and regulations required for establishments producing meat products including the requirements pertaining to Hazard Analysis and Critical Control Point (Title 9 CFR Part 417), Sanitation SOP (Title 9 CFR Part 416) and other matters. FSIS has also developed Rules of Practices regarding enforcement (Title 9 CFR Part 500). The Rules of Practice describe the types of enforcement action that FSIS may take and include procedures for taking a withholding action and suspension, with or without prior notification, and for filing a complaint to withdraw a grant of Federal Inspection.

Findings and Basis for Action:

On August 18, 2012, FSIS initiated an investigation into allegations of inhumane slaughter and handling of cattle that FSIS received in a covertly captured video recorded at Central Valley Meat Co. Inc., in Hanford, California. FSIS reviewed two videos, one video that is approximately three hours and a three minute video that appears to be an edited version of the three hour video. FSIS personnel including expert Public Health Veterinarians specialized in Humane Handling activities and assessments thoroughly evaluated video footage of several incidents that were determined to be egregious inhumane handling and treatment of livestock at your facility purportedly to have occurred between the dates of June 18, 2012, and July 2, 2012. FSIS personnel have identified the facility and the surrounding area on the video as your facility, Establishment 6063A M, as well as plant employees on the video were identified as your establishment employees.

Furthermore, the video displays the new kill floor which was installed on June 26, 2012 at your facility, in addition to the new knocking area, new bleeding area and new single file chutes identified as your establishment, Central Valley Meat Co. Inc., Establishment 6063A M. However, Agency expert personnel, Public Health Veterinarians specialized in Humane Handling activities and assessments, observed and reviewed on the same video footage numerous incidences of stunned cattle, and it was determined by these experts that the animals were properly stunned before hanging or further processing. There was no evidence that live cattle were inappropriately stunned or further processed.

Central Valley Meat Co. Inc., predominately slaughters cull dairy cows. Some of these cull dairy cows die or become non-ambulatory or disabled during the transportation to your establishment. In addition, some cull dairy cows die, become non-ambulatory or disabled during holding at your

establishment. Your humane handling program is expected to ensure on an ongoing basis that all livestock cull dairy cows are handled in a humane manner.

Because all animals received at this facility are in queue for and in connection with slaughter for human food consumption, in accordance with the Humane Methods of Slaughtering Act (HMSA), they must be slaughtered and handled in a humane manner while received and held at your facility.

The covert-recorded videos (approximately 3 minute and 3 hour) were reviewed and assessed by Agency personnel including expert Public Health Veterinarians specialized in Humane Handling activities and assessments. After a thorough evaluation of the video footage and FSIS observation of at least four different incidents of inhumane handling of animals, FSIS determined that these incidents constitute regulatory noncompliances under humane handling and slaughter of livestock regulations, Title 9 of the Code of Federal Regulations Part 313. The following are the regulatory and statutory noncompliances observed at your facility in the 3 hour video referenced above:

- The video timing of 27:21 dated June 26, 2012 shows a cull dairy cow in lateral recumbence struggled to right itself in sternal recumbence and a plant employee is shown grasping the cow's tail and pulling it, dragging the cow approximately 1-2 feet. This is noncompliant with 9 CFR 313.2 (d) (2), which states, *"The dragging of disabled animals and other animals unable to move, while conscious, is prohibited."*
- The video timing of 37:53 dated June 28, 2012 shows in the single file chute leading to the stunning area, several plant employees are attempting to back three animals out of the single file chute. During this process of moving the cattle out of the chute, a plant employee repeatedly and excessively used an electronic prod in the face of one or more cattle. The cattle reacted to the facial prodding by vigorously throwing their heads in distress. This is noncompliant 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."*
- The video timing of 56:54 dated June 28, 2012 shows a plant employee attempted to force a recumbent dairy cow to rise. The plant employee repeatedly prodded this recumbent cow, approximately 15 times, with a hand held electric prod. In response to the prodding, the cow made several unsuccessful attempts to rise and escape the prodding. The plant employee continued to repeatedly prod this animal although it showed inability to rise and ambulate. This is noncompliant with 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."*
- The video timing of 55:30 dated June 26, 2012 shows a plant employee prodded a recumbent dairy cow in a livestock trailer with a long handled electric prod. Upon the first application of the prod to the neck, the cow attempted to rise and moved forward.

After moving to the side of the cow, the plant employee prodded the cow approximately three times in quick succession. The cow did not rise, but appeared to bellow at least twice, according to the position of her head and mouth. The employee walked away from the animal afterwards. This is noncompliant with 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."*

Your establishment failed to implement effective humane handling methods resulting in egregious inhumane handling occurring at your establishment are in violation of the following regulations:

- Title 9 CFR 313.2(a): *Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Livestock shall not be forced to move faster than a normal walking speed.*
- Title 9 CFR 313.2(b): *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. Electrical prods attached to AC house current shall be reduced by a transformer to the lowest effective voltage not to exceed 50 volts AC.*
- Title 9 CFR 313.2(d)(2): *The dragging of disabled animals and other animals unable to move, while conscious, is prohibited. Stunned animals, may, however, be dragged.*

Central Valley Meat Co. Inc. failed to comply with the regulatory requirements for humane handling and slaughter of livestock which is in violation of the Humane Methods of Livestock Slaughter Act, 7 USC 1901, which states, *"The 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,"* and 7 USC 1902, which states, *"No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane."*

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where cattle 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.

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 at your establishment. This letter confirms the verbal notification provided by FSIS of the suspension of the assignment of inspectors at your establishment was provided to you on August 19, 2012.

The suspension of the assignment of inspectors will remain in effect until such time as you can proffer 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 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:

Executive Associate for Regulatory Operations
USDA/FSIS/FO
Room 3157, South Building
1400 Independence Ave., S.W.
Washington DC 20250
Phone: 202-720-3697 or 202-720-9521
Fax: 202-690-3287

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

Director
Evaluation and Enforcement Division
Office of Program Evaluation, Enforcement and Review
Food Safety and Inspection Service
United States Department of Agriculture
Patriots Plaza III, 8th Floor, Cubicle 93
355 E Street, SW
Washington, DC 20024-3221
Phone: 202-418-8872
Fax: 202-245-5097

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

Sincerely,



Yudhbir Sharma
District Manager

cc:

A. Amin, DDM

A. Malak, DDM

F. Gillis, DDM

(b)(6)(b)(7)(C), DVMS

(b)(6)(b)(7)(C), DVMS

(b)(6)(b)(7)(C), DVMS

(b)(6)(b)(7)(C), FLS

(b)(6)(b)(7)(C), DCS

(b)(6)(b)(7)(C), SEIAO

(b)(6)(b)(7)(C), SEIAO

(b)(6)(b)(7)(C), RD, OPEER

USDA IIC, Est. 6063A M

FO/QR