

February 12, 2008

Secretary of Agriculture Ed Schafer
United States Department of Agriculture
Room 227E, Jamie L. Whitten Building
12th Street and Jefferson Drive SW
Washington, DC 20250

Dear Secretary Schafer,

We are writing to express our concern about recently documented practices at the Westland/Hallmark slaughter facility in California. On January 30, 2008 the Humane Society of the United States (HSUS) released a video recorded at the plant that revealed the inhumane treatment of cattle. It also indicated the potential for downer cows, which present an increased risk of mad cow disease, to enter the food supply.

That same day, you announced that several USDA agencies, including the Office of the Inspector General (OIG), the Food Safety and Inspection Service (FSIS), and the Agricultural Marketing Service (AMS), would begin an investigation. Understandably, consumers are extremely concerned and eager for answers because this plant was the second largest vendor¹ of ground beef to the National School Lunch Program.

During media briefings, Dr. Kenneth Petersen, FSIS' Director of Field Operations, articulated the primary question on everyone's minds: How could this occur on an on-going basis without the awareness of the federal inspectors who were stationed at the facility at all times during slaughter? Unfortunately, even the second briefing, which occurred nine days after the first, presented little information to answer that question.

There are several other questions that have not been raised in these briefings but could help answer the primary question. We urge you to include them in USDA's investigation:

Were FSIS inspectors at the Westland/Hallmark plant instructed by the FSIS veterinarian *not* to do humane handling checks in the yard?

Was inspector staffing adequate enough to ensure there was always a "floor inspector" available who could have done these checks, or were all inspectors locked on the line performing post-mortem inspection?

¹ See http://www.ams.usda.gov/lscp/beef/BEEF_VT_FY_2007.pdf

Were the additional veterinarians specifically funded by Congress to perform humane handling inspections able to perform those functions exclusively, or were they assigned to other duties in the Alameda District? If they were assigned to other duties, who assigned them and what were the duties?

Were inspectors instructed not to do humane handling checks?

On January 31, 2008 Dr. Petersen told the media

“In addition to our routine ante-mortem inspection, inspectors regularly observe the handling of animals at any time before, during and after that ante-mortem inspection, and we take immediate control if we observe any humane handling violations . . . we recognize that plant employees may be aware of the presence of our FSIS inspectors, . . . and so we purposely instruct our inspectors to conduct these humane handling verification activities in a way to the best of their ability so that they're not observed by plant employees.”

We agree that the possibility of random checks by many government officials within the plant should have prevented the violations of law revealed recently. The leadership of the inspectors' union, the National Joint Council of Food Inspection Locals (NJC), has learned, however, that inspectors in the Hallmark plant were clearly instructed that FSIS' veterinarian-in-charge at the plant would do *all* humane handling checks and that *inspectors should not go out to the pens*. To the best of our knowledge, it was exclusively the veterinarian doing the ante-mortem inspection and pen checks. We contacted HSUS about this and they confirmed “the vet was the only one looking at the animals ante-mortem. And he was there just for them to stand up and walk by him twice. That's it. He was absent most of the time.”²

You were quoted recently as telling the National Cattlemen's Beef Association that the agency was considering ensuring that inspectors make more visits to the pens. We believe this could be effective in preventing, in plants throughout the nation, more of the egregious behavior we saw on the videotape. Limiting the performance of humane handling checks to one government official makes it much easier for plant employees to flaunt the law. In such situations, plant employees only have to monitor the location of one of the government officials stationed at the plant and alter their activities only when he or she approaches the pens. With the possibility that any federal inspector could also visit the pens at any time, such manipulation would be much more difficult. If USDA's investigation confirms that inspectors did few if any of the humane handling checks at Hallmark, we would suggest that the agency determine in what other plants this could be occurring and explicitly schedule multiple inspectors to routinely perform such activities.

² *Personal communication*. Felicia Nestor, Senior Policy Analyst, Food & Water Watch and Wayne Pacelle, CEO, The Humane Society of the United States. February 10, 2008.

Did staffing levels at the plant permit inspectors to do humane handling checks?

For years, there have been chronic inspector staffing shortages throughout the United States, including in the Alameda District. In response to a recent Freedom of Information Act request from Food & Water Watch, FSIS admitted that the inspection personnel vacancy rate for the Alameda district was 11.33 percent at the close of FY 2007. Because the law requires USDA to perform post-mortem inspection of all carcasses, inspector “on-line” positions must be filled or the plant cannot slaughter. All other inspection tasks, including humane slaughter checks, which are performed by “off-line” inspectors or veterinarians, may be omitted and the plant is still allowed to produce. In slaughter plants with inspector shortages or vacancies, off-line inspector(s) and even the FSIS veterinarian can be pulled to the line to perform the essential post-mortem inspection activities. When they are so deployed, plant employees know there is no chance that a government official will be able to visit the pens to do any checks, until the slaughter line is stopped. This would give company employees plenty of notice to halt behaviors that violate regulations, before any government official reaches the pens.

Are funds designated for humane slaughter checks being used appropriately?

Since 2003, at least, Congress has appropriated funds specifically to be used for humane handling inspections. Inspectors in several states, however, have informed us that the veterinary positions specifically created to perform this function are not always filled. Additionally, veterinarians in those positions are redirected to perform other tasks not even remotely associated with humane handling issues. We request that the agency investigation determine if misallocation of these funds might also have contributed to the serious situation at Hallmark.

Could downer cattle have entered the School Lunch Program?

As you know, the Agricultural Marketing Service requires its approved vendors who supply ground beef to the National School Lunch Program to abide by the humane slaughter requirements of the Federal Meat Inspection Act and the ban on the use of meat from downed animals.³ AMS auditors are supposed to verify that those contractual requirements are being met. When did AMS auditors visit Hallmark/Westland and what did they find during their visits that led them to believe that Hallmark/Westland was in compliance with AMS contractual requirements for meat destined for the National School Lunch Program?

Dr. Petersen has been widely quoted as saying that there is no evidence any downer cattle entered the food supply. But absence of evidence is not evidence of absence. What type of evidence would Dr. Petersen anticipate finding? This is a critical issue since, as USDA regulations recognize, downer cattle present an increased risk of transmitting mad cow disease to consumers. The agency obviously has no recent records of inhumane handling and yet the evidence is clearly on the HSUS video. The same inadequacies in FSIS’ oversight for humane handling that allowed these violations to take place with no FSIS record of it could also result in no records of downers going into the food supply even if it was happening.

³ See http://www.ams.usda.gov/lscp/beef/LSP-SB-TRS-GB-O7%20APPROVED_08-13-07.pdf

Conclusion

We have learned that the inspectors from Hallmark communicated with their union stewards about the problems with handling of downer cows and were subsequently threatened with investigation. Apparently, the decision is still being made whether the agency will investigate their performance at the plants where they work. We strongly urge the agency to refrain from such tactics.

There is no doubt that any such investigations, and even the current threat, will have a chilling effect on any other inspectors who are considering sharing concerns with their representatives. This is not the first time the agency has done investigations of inspectors reporting potential problems, particularly when those problems pertain to mad cow issues. Perhaps this is one of the reasons that FSIS does not learn about significant problems until they become public scandals. It would benefit consumers, USDA, and the industry if the agency welcomed and followed up on important information that front-line witnesses can bring to management, rather than frightening the workforce into silence.

Sincerely,

Stan Painter
President
National Joint Council of Food Inspection Locals

Wenonah Hauter
Executive Director
Food & Water Watch

Cc:

Senator Robert Byrd, Chairman of Senate Appropriations Committee

Senator Tom Harkin, Chairman of Senate Committee on Agriculture, Nutrition and Forestry

Senator Herb Kohl, Chairman of Senate Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations

Representative David Obey, Chairman of House Appropriations Committee

Representative Collin Peterson, Chairman of House Committee on Agriculture

Representative Rosa DeLauro, Chairwoman of House Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations

Dr. Richard Raymond, Undersecretary for Food Safety

Alfred Almanza, FSIS Administrator

Dr. Kenneth Petersen, FSIS Director of Field Operations