USDA
United States Department of Agriculture

Food Safety and Inspection Service

Office of Field Operations

Springdale District

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Springdale, AR 72764
Voice 479-751-8412
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February 22, 2017

Hand Delivered by IIC
UPS Tracking # 1Z09R6A40196817725

Mr. David Ward, Owner
Valley Oaks Steak Company, Est. M46017
1921 W. 50 Hwy
Lone Jack, MO 64070

NOTICE OF SUSPENSION

Dear Mr. Ward,

This serves as official notification by the Food Safety and Inspection Service (FSIS) of the suspension of the assignment of inspection personnel related to your Slaughter process at Establishment M46017, Valley Oaks Steak Company, located at 1921 W. 50 Hwy., Lone Jack, Missouri, as per Regulations 500.3(b) (Rules of Practice). The Notice of Suspension (NOS) is based on your failure to prevent inhumane handling and slaughter of livestock at your facility as required by 9 CFR 313.16(a)(1) and 313.16(a)(3).

Background/Authority

The Humane Method of Slaughter Act of 1978 (7 U.S.C. 1901-1906) 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 the products and economics in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and live products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that slaughtering of livestock and handling of livestock in connection with slaughter shall be carried out only by humane methods.*

FSIS has developed Rules of Practice regarding enforcement (9 CFR Part 500) that describe the types of enforcement action 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 federal inspection. As per the Code of Federal Regulations 9 CFR 500.3(b), FSIS may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 **et seq**.) states: *For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of 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 this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary 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 Title 7 until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

Findings/Basis for Action

On February 22, 2017, (b) (6) [redacted] documented the following observations of inhumane handling in an MOI:

- "Today, February 22, 2017, at approximately 8:20am, I verbally notified Mr. Jeff Gooden, Establishment Manager, of my decision to suspend inspection at Valley Oaks Steak Company M46017. I advised Mr. Gooden that I was also contacting the District Office about the suspension action and that the District Office would be following up with a written suspension letter to the establishment. I based my decision to suspend inspection at the establishment on the following:

  At approximately 0820 on February 22, 2017 while performing slaughter inspection duties on the kill floor, I (b) (6) [redacted] heard two gun shots with a .22 mag revolver in an attempt to knock a steer. I immediately moved to knocking area, outside the kill floor, to observe the steer still ambulatory and alert. The steer did not vocalize any during the event, though it shook its head a couple of times. The stunner then administered the third shot with a hand held stunner in my presence. The third attempt was not immediate, approximately 20 seconds, as the beef was moving its head continuously. The third attempt was effective in knocking the steer unconscious. I then verbally notified Mr. Jeff Gooden (Manager) that I was taking regulatory control of the knocking box and not to move any more beef forward. I then applied US Reject Tag B34734272 to the knocking box after a discussion with (b) (6) [redacted] and notified plant management of the regulatory control action taken. I then advised establishment employees that further processing the beef on the kill floor could continue, but that I was implementing a regulatory control action to prevent the slaughter of animals until the inhumane stunning issues could be addressed. I also advised him that due to the seriousness of this matter, an immediate suspension was being taken and that I was alerting the District Office of the suspension. Shortly thereafter, the kill floor supervisor skinned out the head and cut the skull to visually make a determination on the stunning failure. I visually observed three holes placed in the cranial cavity."

Your establishment failed to comply with 9 CFR 313.16 (a) (1) and (3), the Humane

Methods of Slaughter Act of 1978 (section 3), and the Federal Meat Inspection Act (21 U.S.C. 603). As documented in the MOI dated February 22, 2017 and in this letter, you have failed to prevent violations of the Humane Slaugher Act of 1978 and the Regulations, 9 CFR 313, promulgated by FSIS to enforce the provisions of the Act.

Therefore, in accordance with FSIS Rules of Practice, 9 CFR 500.3 (b) we are notifying you of the suspension of the assignment of inspection personnel at your facility. The Notice of Suspension action will remain in effect until you provide adequate written corrective and preventive measures to assure that all livestock at your facility will be handled in a humane manner during slaughter. We will determine further action, if any, based upon your response. Your repsonse should include:

1. An initial assessment of the incident, and determination of the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for firearm stunning of livestock, along with a documentation record.

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

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

You may appeal this decision by contacting:

U.S. Department of Agriculture
Food Safety and Inspection Service
Office of Field Operations
Attention: Hany Sidrak, DVM
Executive Associate for Regulatory Operations
1400 Independence Avenue, SW
Room 3157-South Bldg.
Washington, DC 20250
Phone: (202) 205-4208

If you have any questions, please contact this office.

Sincerely,

Robert Q. Bane
District Manager

cc. Dr. Hany Sidrak, EARO (via electronic copy)
(b) (6) [redacted]
Dr. Julie Cornett, DDM (via electronic copy)
Dr. Don Dowdle, DDM (via electronic copy)
Dr. Evan Sumner, DDM (via electronic copy)
FO/Quarterly Reports (via electronic copy)

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February 23, 2017

Via email: david@valleyoaksangus.com
UPS Tracking # 1Z09R6A40198420337

Mr. David Ward, Owner
Valley Oaks Steak Company, Est. M46017
1921 W. 50 Hwy.
Lone Jack, MO 64070

NOTICE OF SUSPENSION HELD IN ABEYANCE

Dear Mr. Ward,

On February 22, 2017 the Food Safety and Inspection Service (FSIS) notified you of the suspension of the assignment of inspection personnel at your facility. This Notice of Suspension was based on Title 9 Code of Federal Regulations (CFR) Rules of Practice 500.3(b) due to your establishment's failure to prevent inhumane handling and slaughtering of livestock at your facility as required by 9 CFR 313.16(a)(1) and (3).

On February 22, 2017, you provided a written response to the Notice of Suspension via email, beginning a dialogue with FSIS that resulted in your final Action Plan submission on February 23, 2017. FSIS analyzed the corrective and preventive measures provided in your Action Plan responses, which included actions to prevent the recurrence of inhumane handling of livestock. Therefore, FSIS will hold the suspension in abeyance pending verification by FSIS personnel that your Action Plan is effectively implemented. This letter serves as formal notification that the suspension is being held in abeyance.

An abeyance is a moratorium on the effect of a suspension. Once a suspension is imposed, the Agency may put it into abeyance if the establishment undertakes corrective and preventive actions that the the Agency finds will ensure the conditions that were the basis for the suspension will be eliminated, and your action plan is effectively implemented.

A copy of FSIS' Verification Plan is being shared with you to assist in understanding the nature and importance of the Agency's verification activities. This FSIS Verification Plan is designed to verify that your establishment fully implements the Action Plan identifed in your February 22, 2017 proposal and subsquent proposals, and that measures proffered are effective in assuring ongoing regulatory compliance. It identifies the noncompliance, your actions, and FSIS verification procedures.

Please be advised that your failure to comply with statutory and regulatory requirements, to implement the corrective actions identified in the action plan, and/or failure to notify this office in writing of any changes to the action plan may result in our initiating further regulatory action as deemed necessary at the time.

During this period of abeyance, any changes made to the action plan need to be submitted to this office for review and comment prior to you putting the changes into place. FSIS inspection program personnel will notify the Frontline Supervisor and District Office immediately when modifications are made to the action plan and your establishment fails to notify this office.

If you have any questions, please contact this office.

Sincerely,

Robert Q. Bane,
District Manager

cc. Dr. Hany Sidrak, EARO (via electronic copy)
(b) (6)
[redacted]
Dr. Julie Cornett, DDM (via electronic copy)
Dr. Don Dowdle, DDM (via electronic copy)
Dr. Evan Sumner, DDM (via electronic copy)
FO/Quarterly Reports (via electronic copy)

FSIS Verification Plan

Establishment Name (M46017)

	Est. Action Plan (AP) ISP Code (ISP) Regulation (Reg)	FSIS Verification (FV) Records (Rec) FSIS Frequency (FF)
VP1	Training on the location of a proper stun was implemented using a diagram and the skull cap from a steer.	Verify through records review that the establishment documented training of employees. If new employees are assigned to stunning duties, verify the establishment performs trains these employees prior to performing stunning activities.
	Livestock Humane Handling	Training records
	9 CFR 313.16(a)(1); 313.16(a)(3)	Once upon initiation of verification plan; as needed thereafter.
VP2	.22 pistol with polymer round will no longer be used; .22 rifle with full metal jacket round will now be used to stun beef. Stunning location diagram printed and hung next to knock box.	Verify the establishment uses a .22 rifle with full metal jacket round to stun beef, and that this stunning method is effective. Verify the establishment maintains stunning diagram next to knock box.
	Livestock Humane Handling	Stunning diagram
	9 CFR 313.16(a)(1); 313.16(a)(3)	Each day slaughter is performed.
VP3	PM or designee will directly observe stunning at least once per slaughter day, and will remove skull cap from at least one head to observe location of stunning. Documented on Slaughter Log.	Verify by records review that PM or designee directly observes stunning. Verify by both observation and records review that the PM/designee removes skull cap from head to verify location of stunning at least once each slaughter day.
	Livestock Humane Handling	Slaughter Log
	9 CFR 313.16(a)(1); 313.16(a)(3)	Each day slaughter is performed.
VP4	In the event of complete mechanical failure of the primary firearm, a captive bolt stunner is kept readily accessible at the knock box location.	Verify the establishment maintains captive bolt stunner for backup readily available at the knock box location during slaughter.
	Livestock Humane Handling	N/A
	9 CFR 313.16(a)(1); 313.16(a)(3)	Each day slaughter is performed.
VP5	AP5	FV5
	ISP5	Rec5
	Reg5	FF5
VP6	AP6	FV6
	ISP6	Rec6
	Reg6	FF6
VP7	AP7	FV7
	ISP7	Rec7
	Reg7	FF7
VP8	AP8	FV8
	ISP8	Rec8
	Reg8	FF8
VP9	AP9	FV9
	ISP9	Rec9