



United States Department of Agriculture

June 27, 2013

TO: Jennifer Beasley-McKean, District Manager
Dallas, Texas

FROM: Daniel Engeljohn, Assistant Administrator
Office of Field Operations

SUBJECT: Approval of Two Documents Specific to Consideration for a Grant of Inspection
for Equine Slaughter by Valley Meat Company LLC

Attached are two decision memos that I have stamped with today's date signifying my approval: National Environmental Policy Act Categorical Exclusion, and Endangered Species Act Section 7 Consultation. Also attached is a copy of an aerial shot of the site map for Valley Meat Company LLC.

Please file them with your documentation related to all the considerations associated with the request for a grant of inspection.

Attachments (3)

Food Safety and Inspection Service
1400 Independence Avenue, SW
Washington, DC 20250
Voice 202-720-3473 Fax 202-720-3658
An Equal Opportunity Provider and Employer

AR0002466

JUN 27 2013

Decision Memo--National Environmental Policy Act Categorical Exclusion

Application of Valley Meat Company, LLC, for a Grant of Federal Meat Inspection Services

Decision

It is my decision to grant federal meat inspection services to Valley Meat Company, LLC.

Description

Valley Meat Company, LLC (Valley Meat) is a small (7,290 square-foot) cattle slaughter and processing facility with a street address of 3845 Cedarvale Rd., Roswell, Chaves County, New Mexico. Valley Meat's zoning permit indicates that its facility is located on a 22-acre site about 12 miles east of Roswell and within an extraterritorial industrial zone that has been set aside in Chaves County for light industrial use. Its nearest neighbors are located approximately one mile to the east and one mile to the west of its facility. Valley Meat has existed as slaughter facility since 1982. Its current owner, Mr. Ricardo de los Santos, has conducted federally inspected commercial slaughter of cattle, veal calves, goats, sheep, lambs, and swine at this facility more or less continuously since January, 1991.¹ On March 2, 2012, Valley Meat filed an application with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), to modify its grant of inspection to receive inspection services for the commercial slaughter of horses, mules, and other equines.

Proposed Action

The proposed action is to grant federal meat inspection services for commercial horse slaughter operations at Valley Meat. The Federal Meat Inspection Act (FMIA) requires government inspectors to conduct an ante-mortem inspection of all amenable species, including cattle, sheep, swine, goats, horses, mules and other equines (21 U.S.C. § 603); a post-mortem inspection of the carcasses and parts of all amenable species (21 U.S.C. § 604); and an inspection of meat food products during processing operations (21 U.S.C. § 605) in establishments that sell or distribute in commerce meat that is intended for human consumption. Horses, mules, and other equines have been among the livestock species that are amenable to the FMIA since it was amended by the Wholesome Meat Act in 1967.^{2 3} The FMIA and its implementing regulations in 9 C.F.R.

¹Valley Meat has operated as a slaughter establishment under several previous grants of federal inspection. It received its first grant in 1982 when it was known as Pecos Valley Meat Company (Pecos) and was under different ownership. Mr. de los Santos took over ownership of Pecos and obtained his first grant of inspection on January 8, 1991. He obtained his second (and still current) grant on September 1, 2010, after adding Mr. Jose Hernandez as a second owner and partner and changing the name of the slaughter plant to Valley Meat. Valley Meat has not operated under its current grant since April 13, 2012.

²FSIS regulations require that establishments that slaughter horses, mules, and other equines must be completely separate from any establishment that slaughters cattle, sheep, swine, or goats.

³FSIS temporarily suspended inspection of horse slaughter facilities from 2006 to 2012 because Congress prohibited FSIS from expending funds to pay for ante-mortem inspection of equines in each of those years, but the underlying statute requiring federal inspection of horse slaughter has never been amended or repealed. In 2012 Congress restored federal funding of ante-mortem inspection of horses at commercial horse slaughter plants. Therefore, issuing a grant of inspection for commercial horse slaughter is not precedent setting, but rather, a return to the status quo ante.

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parts 302, 304, 307, 416, and 417 require facilities that wish to engage in the commercial slaughter of amenable species to produce meat intended for human consumption and sale or distribution in interstate commerce to apply to FSIS for a grant of federal inspection services and they establish criteria for determining the eligibility of the applicant to receive inspection services.

FSIS is also required to conduct an examination and inspection of the method by which amenable species, including horses, are slaughtered and handled in connection with slaughter in order to ensure that the establishment is in compliance with the Humane Methods of Slaughter Act (21 U.S.C. § 603) (HMSA). The HMSA was enacted to prevent the needless suffering of livestock, to improve products and economies in slaughter operations, and to produce other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. FSIS has implemented and enforces regulations under the HMSA (9 C.F.R. part 313).⁴

The National Environmental Policy Act and FSIS' Categorical Exclusion

The National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council of Environmental Quality implementing regulations (40 C.F.R. Parts 1501-1508) require all federal agencies to prepare an assessment of the environmental impact of a proposed agency action (called an environmental assessment, or EA) (40 C.F.R. §§ 1501.3 and 1501.4(b)). Based on the EA, NEPA further requires federal agencies to prepare an environmental impact statement (EIS) for major federal actions significantly affecting the quality of the human environment (42 U.S.C. § 4332(2)(c) and 40 C.F.R. § 1504.1(c)). However, federal agencies may identify classes of actions that normally do not require the preparation of either an EA or an EIS because such actions do not have a significant effect on the human environment, either individually or cumulatively (40 C.F.R. § 1507.3(b)(2)). Classes of actions that have no significant environmental effect, either individually or cumulatively, are said to be categorically excluded from NEPA requirements (40 C.F.R. § 1508.4). Despite allowing federal agencies to identify classes of action that are categorically excluded from NEPA requirements, NEPA still requires an agency to determine and inform the agency decision maker on whether or not there are any potential environmental impacts that may result from a proposed action of that agency.

⁴The Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) is an animal welfare statute governing the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States. In 1998, the Secretary issued regulations (9 C.F.R. part 88) that establish safety standards for conveyances being used to transport equines to slaughter; define the duties and responsibilities of owner/shippers prior to loading equines onto the conveyance, during the actual commercial transportation of said equines to the slaughter plant, and upon their arrival at a slaughter plant; and set forth paperwork and back tagging requirements for equines being commercially transported to slaughter. This program is administered by USDA's Animal and Plant Health Inspection Service, whose personnel historically have conducted their inspections of slaughter horses and the conveyances in which they are transported to slaughter upon the horses' arrival at a slaughter facility.

USDA's NEPA implementing regulations are found in 7 C.F.R. § 1b. These regulations list FSIS as an agency that conducts programs and activities that have been found to have no individual or cumulative effect on the human environment, such that FSIS is categorically excluded from the requirements of preparing procedures to implement NEPA and its actions are categorically excluded from the preparation of an EA or an EIS unless the FSIS Administrator determines that an action may have a significant environmental effect (7 C.F.R. § 1b.4).

When a federal agency's action is merely ministerial as opposed to discretionary and the agency lacks discretion to affect the outcome of its action, there is no major federal action that triggers NEPA requirements. A grant of federal inspection under the FMIA is purely ministerial because, if a commercial horse slaughter plant meets all of the statutory and regulatory requirements for receiving a grant of federal inspection services, FSIS has no discretion or authority under the FMIA to deny the grant on other grounds or to consider and choose among alternative ways to achieve the agency's statutory objectives. Therefore, a grant of federal inspection services under the FMIA is not a major federal action that is subject to NEPA requirements.

A grant of federal inspection likewise does not and will not allow FSIS to exercise sufficient control over the commercial horse slaughter activities at Valley Meat such that the grant will constitute a major federal action that triggers NEPA requirements. The sole purpose of federal meat inspection is to protect public health and welfare by ensuring that any meat produced for human consumption and sale or distribution in commerce is wholesome, not adulterated, properly packaged, and properly labeled as to species, quantity, and point of origin, and the FMIA does not authorize FSIS to regulate a commercial horse slaughter facility's slaughter activities beyond that which is necessary to achieve this purpose. Accordingly, the FMIA authorizes FSIS inspectors to conduct ante-mortem inspection of horses to ensure that they are not dead or dying, diseased, or non-ambulatory, and that they are not inhumanely handled or slaughtered. It likewise authorizes FSIS inspectors to conduct post-mortem inspection of the carcasses and meat food products resulting therefrom to ensure that the carcasses and meat are wholesome, unadulterated, and fit for use as human food. In addition, the FMIA authorizes FSIS to require commercial slaughter plants to maintain sanitary conditions with respect to the conduct of commercial slaughter, meat preparation, and meat packaging operations, the proper storage of carcasses and the meat products derived therefrom, and the storage and proper disposal of condemned or inedible materials. The FMIA further authorizes FSIS to require commercial slaughter plants to develop hazard analysis and critical control point plans that identify and prevent or control for potential food safety hazards at each step of the slaughter process. All FSIS inspectors assigned to conduct federal meat inspection at Valley Meat's facility will perform these duties in accordance with the policies and procedures set forth in several FSIS directives and notices, including but not limited to FSIS Directive 6900.2 Rev. 2, *Humane Handling and Slaughter of Livestock*; FSIS Directive 6100.1 *Ante-Mortem Livestock Inspection*; FSIS Directive 6100.2, *Post-mortem Livestock Inspection*; and FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*. However, FSIS inspectors will not have any authority or control over the day-to-day operations of the slaughter plant save to the degree necessary to achieve the agency's mission to protect public health by ensuring that horse meat intended for use as human food is safe to eat and properly labeled.

Even if FSIS did have sufficient authority and control over commercial slaughter activities at a horse slaughter establishment such that a grant of federal inspection to such an establishment could constitute a major federal action, federal ante-mortem and post-mortem inspection of horses at Valley Meat would not be the legally relevant cause of the establishment's commercial horse slaughter activities or the impacts, if any, that such slaughter activities might have on the environment. As noted above, federal inspection under the FMIA is required for any meat that is produced for human consumption and for sale or distribution in interstate commerce, and Valley Meat has operated for about 20 years under a grant of inspection for the commercial slaughter of amenable species other than horses that has not been revoked or otherwise terminated. Valley Meat could resume the slaughter of other amenable species under its existing grant of inspection, so a decision not to grant Valley Meat's current application for federal inspection of commercial horse slaughter would not result in the shuttering of the slaughter plant or relieve its alleged environmental impacts. Furthermore, a modification of the existing grant of inspection so that it applies exclusively to the commercial slaughter of horses would not be a substantial change to the agency's actions pursuant to the grant but would preserve the status quo because FSIS inspectors would continue to follow the policies and procedures set forth in the directives cited above, regardless of the amenable species being slaughtered. It also would not be a substantial change to Valley Meat's commercial slaughter activities but would preserve the status quo because the environmental impacts resulting from the commercial slaughter of horses, if any, would not be significantly different from those resulting from the commercial slaughter of other amenable species. Finally, if the meat produced at a commercial horse slaughter plant is not intended for human consumption, or if it is intended for human consumption but for sale or distribution only in intrastate commerce rather than in interstate commerce, then the commercial horse slaughter and the effects thereof may proceed independently of a grant of federal ante-mortem and post-mortem inspection, and FSIS would have no ability to prevent them. In the present instance, Mr. de los Santos has indicated that he intends to prepare horse meat for human consumption and that his intended market is Mexico, so he may operate only subject to a grant of federal inspection.⁵ However, nothing in the FMIA precludes him from expanding his operation to include the preparation and sale of horse meat to pet food companies and zoos for non-human consumption. It thus is possible for Valley Meat to operate as a horse slaughter establishment, and possibly have an effect on the environment, without a grant of federal inspection. Accordingly, a grant of federal inspection services is not and cannot be the legally relevant cause of either the commercial slaughter activity or its environmental impact, if any.

Based on the foregoing, a decision to grant federal inspection services to Valley Meat does not constitute major federal action that will significantly affect the quality of the human environment and thus does not trigger any requirements under NEPA. Nevertheless, given the high level of public interest in this particular issue, FSIS has examined several aspects of granting federal inspection services to Valley Meat to determine if the categorical exclusion applies to this action

⁵It is not possible for Mr. de los Santos to prepare horse meat for human consumption by consumers located only in the State of New Mexico without a grant of federal meat inspection services because New Mexico has been designated by the Secretary of Agriculture as a state in which the FMIA applies to all transactions involving meat intended for human consumption, even if the meat is sold and distributed only in intrastate commerce. See 9 C.F.R. part 331.

or if any unique conditions or extraordinary circumstances exist that would cause this action to have a significant environmental effect and trigger NEPA requirements. These aspects are the following:

-Impacts on Public Health and Safety. As explained above, federal inspection under the FMIA is intended solely to protect public health and safety by ensuring that meat and meat food products intended for use as human food are not adulterated or misbranded. However, the agency recognizes that the potential impacts of commercial horse slaughter on public health may cause concern with segments of the public. One such concern is the potential public health risks that could arise from the presence in horse meat of trace amounts of certain classes of drugs that have not been approved for use in animals that will or could be slaughtered to produce food for human consumption. The Humane Society of the United States and other horse protection groups contend that horses' status as companion animals that usually are not slaughtered in this country to produce human food means that most horses in the United States have been treated with antibiotics, anti-inflammatory drugs, growth hormones, and other substances that typically are not used on other food animals and for which the Federal Drug Administration has established no tolerances. These groups further contend that residues of these substances remain in horse tissues indefinitely, thus rendering any meat produced from U.S. horses unsafe for human consumption and constituting a threat to public health. FSIS has addressed this risk by implementing a new drug residue testing program that will screen the meat of slaughtered horses for drug residues before the meat is allowed to enter the food supply chain (see FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*). Horse meat that tests positive for drug residues will be marked U.S. condemned and will not be allowed to enter the stream of commerce. Instead, the meat will be disposed of by sending it to a rendering facility, thereby ensuring that it endangers neither public health and safety nor the local environment. Additionally, as described below, an overlapping scheme of federal, state, and local environmental laws and ordinances will further ensure that the waste products generated by Valley Meat's commercial horse slaughter activities are properly disposed of and will not enter the human food supply chain or the local environment. Therefore, a decision to grant federal inspection to Valley Meat will safeguard public health and safety by ensuring that commercial horse slaughter at Valley Meat has no more potential to have a significant impact on public health and safety than did the commercial slaughter of cattle, pigs, sheep, and goats that preceded it.

--Wildlife Hazards. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not create a wildlife hazard.

-Impacts on Wild and Scenic Rivers and U.S. Waters and Wetlands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect a river segment that is listed in the Wild and Scenic River System or National Rivers Inventory. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact federal or state regulated or non-jurisdictional wetlands.

-Impacts on Energy and Natural Resources. FSIS has determined that commercial horse

slaughter activities at Valley Meat and/or federal inspection thereof will not have a significant impact on energy and other natural resource consumption.

--Impacts on Public Parks, Recreation Areas, Wildlife/Waterfowl Refuges, Historical Sites, and Other Publicly Owned Lands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impacts on any publicly owned land from a public park, recreation area, wildlife or waterfowl refuge, or historical site of national, state, or local significance.

In its June 2011 report on the unintended consequences of the cessation of commercial horse slaughter in the United States, the General Accounting Office (GAO) found that there has been an increase in horse abandonment on private or state park land since 2007. It likewise found an increase in horse abandonment on federal lands, including national parks and Indian reservations. The abandonment of horses on these lands results in over-grazing that degrades the land and puts environmental stress on other species that compete with horses for the same food sources. Horse abandonment on these and other federal lands that maintain populations of wild horses increases the chance that the abandoned horses will introduce equine diseases to the wild herds. The increasing numbers of unwanted horses also complicate the Bureau of Land Management's efforts to manage herds of wild horses and burros on federal lands by making it more difficult for the agency to adopt out the horses and burros that it removes from federal lands. Based on the foregoing, commercial horse slaughter at Valley Meat and other horse slaughter plants has the potential to reduce the horse overpopulation in the United States while providing owners of unwanted horses with an economically viable and an environmentally sustainable alternative to horse abandonment as a method of disposing of their unwanted horses.

FSIS has also made the following findings required by other laws:

--Clean Air Act. Section 176(c)(1) of the Clean Air Act (42 U.S.C. § 7401) requires federal agencies to assure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards that the Environmental Protection Agency (EPA) has set for certain criteria pollutants, such as sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, lead, and particulate matter. See 40 C.F.R. part 50. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not increase the frequency or severity of any existing violations of standards for ambient air quality, result in any new violations of said standards, or prevent or delay the timely attainment of said standards in the area of concern.

--Clean Water Act. Following section 401(a) of the Clean Water Act (33 U.S.C. § 1341) (CWA), 9 C.F.R. § 304.2(c)(1) requires any applicant for federal meat inspection at an establishment where the operations thereof may result in any discharge into navigable waters as defined by the CWA to provide the Administrator, FSIS, with certification, obtained from the State in which the discharge will originate, that there is reasonable assurance that said operations will be conducted in a manner that will not violate the applicable water quality standards. On June 14, 2103, Mr. de los Santos provided the Administrator, FSIS, with an attestation that horse slaughter operations at Valley Meat will not result in any discharge into any navigable waters as

defined by the CWA. Mr. de los Santos also provided the Administrator, FSIS, with a copy of a National Pollution Discharge Elimination System (NPDES) Form 3510-11, No Exposure Certification for Exclusion from NPDES Storm Water Permitting, dated May 10, 2013, which he also submitted to EPA pursuant to section 402 of the Clean Water Act (33 U.S.C. § 1342) and its accompanying regulations (*see* 40 C.F.R. § 122.26(g)). This form notifies that EPA that Valley Meat does not require permit authorization for its storm water discharges associated with industrial activity.

--**Endangered Species Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact, either directly or indirectly, on any federally or state-listed or proposed endangered species of flora and fauna or impact critical habitat. According to the U.S. Fish and Wildlife Service (FWS), there are no known threatened or endangered species or designated critical habitat in the immediate vicinity of Valley Meat's slaughter facility. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact affect other biotic communities or habitat not protected by the Endangered Species Act.

It should be noted that any grant of federal inspection for commercial horse slaughter at Valley Meat will not be the issuance of a new grant, but instead will be a modification of an existing grant of inspection for the commercial slaughter of other amenable species under the FMIA (*e.g.*, cattle, sheep, goats, and pigs) at the same facility. Consistent with the response of FWS, the commercial slaughter of other amenable species occurred more or less continuously at Valley Meat's facility for more than 20 years with no discernible effects on listed endangered species or their designated critical habitat. Furthermore, there will no significant difference between the methods that Valley Meat will use to conduct commercial horse slaughter at its facility and the methods that it previously used to conduct the slaughter of other amenable species. Therefore, there is no reason to believe that the conversion of Valley Meat's facility to a dedicated commercial horse slaughter plant will have any more impact on endangered species and their critical habitat than did the prior commercial slaughter of other amenable species.

--**Migratory Bird Treaty Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect species protected under the Migratory Bird Treaty Act.

--**National Historic Preservation Act.** The National Register of Historic Places lists 19 sites located inside the Roswell, New Mexico, multiple resource area (MRA). Of these, only two, the Patrick Floyd Garret House and the South Spring Ranch, are located within the extraterritorial industrial zone, but both are located slightly more than three (3) miles from Valley Meat's facility. Therefore, FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact any historic or cultural property or resources protected by the National Historic Preservation Act.

In 2009, a coalition of northwest Indian tribes reported to the General Accounting Office that the increase in horse abandonments on tribal lands, combined with the sizable populations of wild horses that already existed on their lands, both increased the degradation of the land caused by

over-grazing and complicated efforts to restore native and religiously-significant plant species on tribal lands. Commercial horse slaughter at Valley Meat and other commercial horse slaughter plants thus has the potential to have a beneficial effect on the cultural resources of American Indian tribes whose tribal lands are being degraded by a combination of an overpopulation of wild horses and large scale abandonment of unwanted horses on their lands.

--**Federal Farmland Protection Policy Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not involve the acquisition or use of farmland protected by the Federal Farmland Protection Policy Act that would be converted to non-agricultural use.

--**Humane Methods of Slaughter Act.** As previously noted, Valley Meat's commercial horse slaughter operations will be subject to the humane handling requirements found in section 603(b) of the FMIA (21 U.S.C. § 603(b)) and the regulations promulgated thereunder (9 C.F.R. part 313). On February 24, 2012, FSIS suspended Valley Meat's grant of federal inspection for inhumane handling of cattle, but the suspension was put into abeyance with a letter dated February, 29, 2012. The firm ceased all slaughter operations in March 2012 and has not resumed slaughter under federal inspection. FSIS subsequently terminated its administrative enforcement action against Valley Meat with a Letter of Warning dated September 28, 2012.

--**State and Local Laws.** As previously noted, Valley Meat's facility is located inside an extraterritorial industrial zone in Chaves County. The county requires slaughter facilities to be built in an industrial area away from residential areas in order to prevent nuisances such as noise and odors (Chaves County, NM, Extraterritorial Zoning Ordinance art. 14 (2005)). FSIS has no information to believe that the location of this industrial area or the facilities operating therein has ever been questioned or challenged on the ground that it impinges on any natural resources, ecologically critical areas, or historical, archaeological, or cultural sites located in and around this area.

The property where Valley Meat's facility is located was re-zoned in 1982 from agricultural land to an industrial area for food processing and wholesale distribution. Valley Meat's facility initially was approved by the Zoning Commission as a packing facility for cattle, sheep, and hogs. Before allowing the property to be re-zoned, the Zoning Commission considered the impact of the slaughter facility upon the public health, safety and welfare of the community; the existing and anticipated traffic flows; parking conditions, setbacks, and height; landscaping and screening; open spaces; signage; lighting; and other items. The transition of Valley Meat's operations from the slaughter of cattle to the slaughter of horses will not change the impacts that already have been considered by the zoning commission.

Valley Meat's waste disposal is governed by New Mexico's Solid Waste Act (N.M. Stat. Ann. 74-9-1 *et seq.*) (SWA) and its accompanying regulations (N.M. Code R. 20.9.2 through 20.9.10). It is a violation of the SWA to store, process, or dispose of solid waste in an unapproved manner and to dispose of any solid waste in a place other than a solid waste facility that meets the requirements of the SWA and its accompanying regulations (N.M. Stat. Ann. 74-9-38; N.N. Code R. 20.9.2.10A(1), (3)), and disposing of solid waste in a manner that harms the

environment or endangers public health or safety can result in a fine of up to \$5000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-9-38 and 74-8-31(3) and (5)). On January 22, 2010, FSIS asked the New Mexico Environmental Department's (NMED's) Solid Waste Bureau to investigate a large compost pile of cattle offal and other inedible parts that the plant was maintaining just off the slaughter plant's official premises. On August 2, 2012, NMED initiated an administrative action against Valley Meat seeking an Administrative Compliance Order directing it to clean up the compost pile. On November 16, 2012, NMED and Valley Meat settled the administrative action with a Final Stipulated Order that required Valley Meat to develop a plan for removing the compost pile and taking it to a landfill or other approved site within 45 days and imposed a civil penalty. Valley Meat paid its civil penalty in full on January 8, 2013, and NMED terminated the enforcement action. Valley Meat currently does not have a composting permit from NMED, as required by N.M. Code R. 20.9.3.27, and thus is not authorized under the SWA to compost any waste materials generated by its slaughter and processing activities. It has contracted with an inedible rendering company to pick up and dispose of inedible and condemned materials produced by commercial horse slaughter activities. Additionally, if FSIS issues Valley Meat a grant of federal inspection for commercial horse slaughter, FSIS will post a notice on the inspection office bulletin board alerting agency inspectors that composting solid waste at Valley Meat is prohibited and that the inspectors should notify NMED immediately if they observe composting on Valley Meat's premises.

Valley Meat's disposal of wastewater and effluent, including blood, is governed by New Mexico's Water Quality Act (N.M. Stat. Ann. 74-6-1 *et seq.*) (WQA) and its Water Quality Control Commission (WQCC) regulations (N.M. Code R. 20.6.2). Failure to comply with the WQA and its regulations may result in a fine of up to \$15,000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-6-10). The WQCC regulations require establishments that propose to construct or modify any sewerage system to file plans and specifications of the construction or modification with the Ground Water Quality Bureau for discharges that may affect ground water, and to file the same with the Surface Water Quality Bureau for discharges that may affect surface water (N.M. Code R. 20.6.2.1202). The regulations also require establishments that discharge wastewater or effluent into ground water to apply for a discharge permit, DP-236 (N.M. Code R. 20.6.2.3104). If the holder of a discharge permit wishes to modify its permit, it must apply for said modification at least 120 days before the permit expires (N.M. Code R. 20.6.2.3106). In November, 1982, Valley Meat was issued a DP-236 for the discharge of up to 8,000 gallons of agricultural wastewater per day to a treatment and disposal system, and this permit was renewed or modified several times before expiring on May 19, 2009. On June 3, 2010, Mr. de los Santos applied for a renewal of his DP-236, and on May 31, 2013, the Ground Water Quality Bureau published a draft DP-236 for Valley Meat on NMED's website. The website stated that NMED would allow thirty (30) days from the date of publication of the draft discharge permit for interested parties to submit comments on the permit. It further stated that NMED will conduct a hearing on the renewal request if NMED determines that there is sufficient public interest in convening a hearing. Because the DP-236 is required by state rather than federal law, neither the notice and comment period nor a public hearing, if any, precludes FSIS from granting federal inspection services to Valley Meat if the agency determines that Valley Meat has met all other applicable federal requirements.

If NMED renews Valley Meat's DP-236, most of the water used by Valley Meat will become wastewater that ultimately will be discharged into the establishment's treatment and disposal system. Some of the blood produced by its slaughter operations likewise will drain into the establishment's treatment and disposal system.⁶ Valley Meat uses a septic tank and lagoons to treat and dispose of its wastewater and effluent. The soil conditions found in and around Chavez County are conducive to the use of septic systems because the soil is moderately permeable, which allows for effluent absorption without over-saturation. The soil also has thick, impermeable layers of clay that protect the area's shallow aquifers. Therefore, the wastewater used in and blood generated by Valley Meat's commercial horse slaughter operations should not impact the local ground and surface water.

Conclusion.

Based on the foregoing, FSIS finds no unique conditions or extraordinary circumstances of the proposed action to grant federal meat inspection services to Valley Meat that would cause this action to have a significant environmental effect. Therefore, in accordance with 7 C.F.R. § 1b.4, the proposed action is categorically excluded from the preparation of an EA or an EIS.

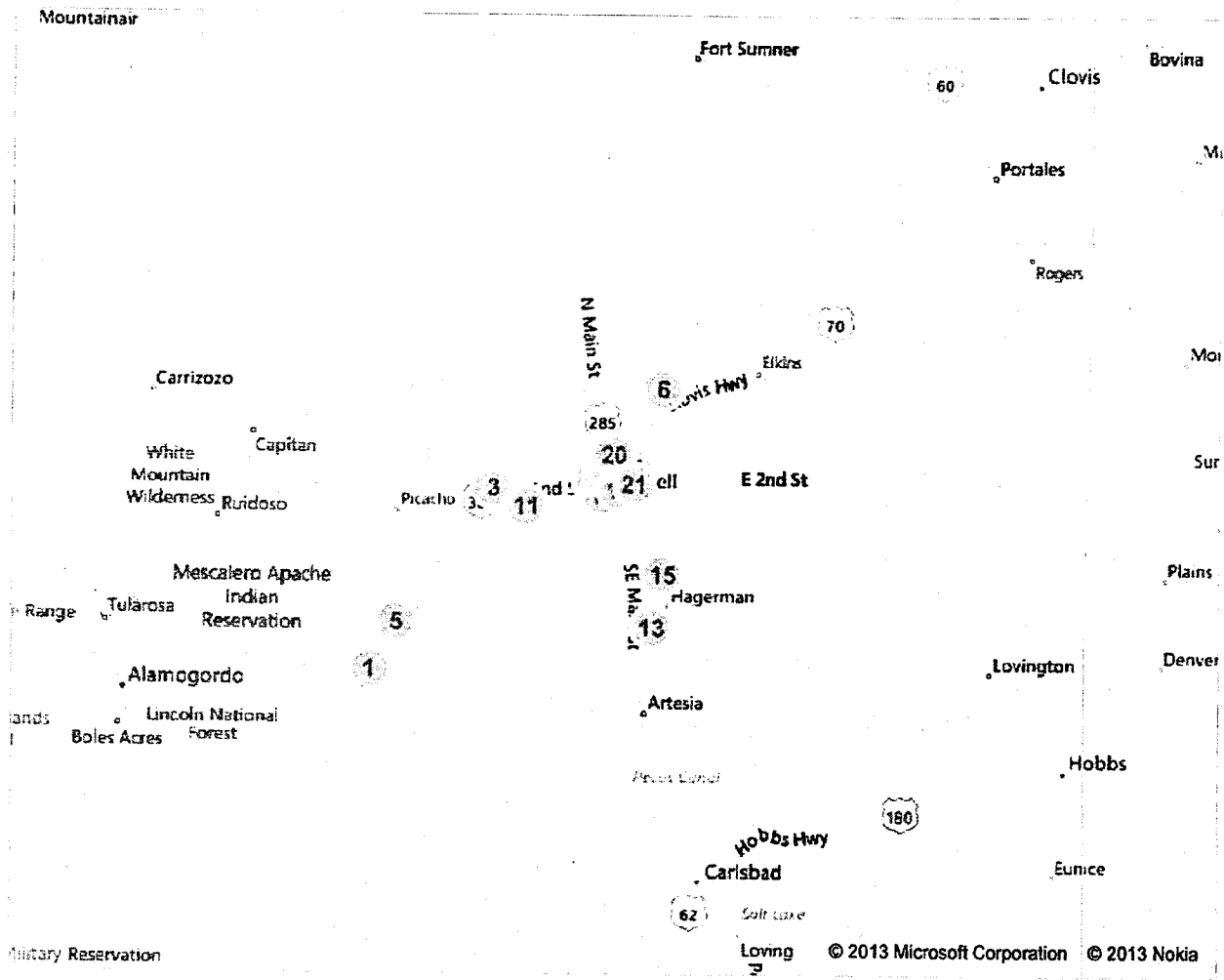
⁶Some opponents of commercial horse slaughter have claimed that horses have, pound-for-pound, twice as much blood volume as cows, and that the blood produced by commercial horse slaughter will overwhelm any waste water disposal system. According to FSIS veterinarians, the blood volume of the average horse ranges from 6.14% to 8.63% of live animal weight, as opposed to 6.75% of live animal weight for the average cow, and thus is not appreciably different from that of cows. Furthermore, the volume of horse blood that commercial horse slaughter at Valley Meat is likely to produce will be a function of the sizes and breeds of the horses that are slaughtered there and the volume of horse slaughter and thus is highly speculative. As noted above, Valley Meat is located 12 miles from the nearest municipality and relies on septic tanks and lagoons for waste water disposal, rather than Roswell's waste water disposal system. Given the speculative nature of the horse slaughter opponents' claims about horse blood volumes, Valley Meat's distance from Roswell, and the nature of Valley Meat's waste water and disposal system, there is no reason to believe that Valley Meat's waste water and disposal system is inadequate to handle the volume of horse blood that is likely to be produced by commercial horse slaughter operations at its facility.



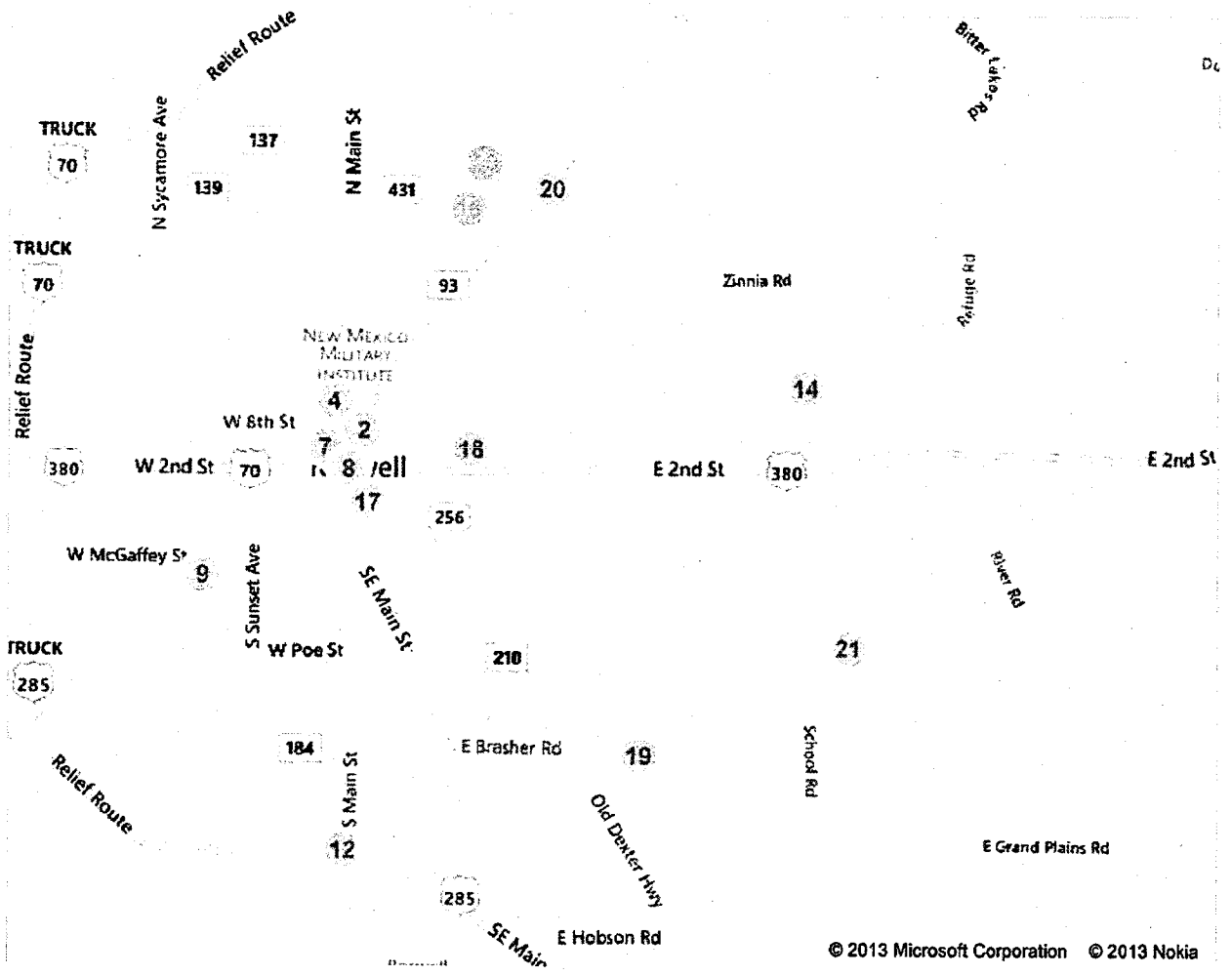
Valley Meat

1. **CA Bar Ranch 32.89407, -105.2244**
2. **Courthouse 33.39713, -104.52167**
3. **Diamond A Ranch 33.35178, -104.85273**
4. **Historic District 33.40151, -104.52709**
5. **Flying H Ranch 33.01165, -105.1398**
6. **Frazier, New Mexico 33.59787, -104.33247**
7. **James Phelps White House 33.39433, -104.52895**
8. **Louise Massey House 33.39097, -104.52463**
9. **Millhiser--Baker Farm 33.37397, -104.55146**
10. **Milne--Bush Ranch 33.43871, -104.49906**
11. **Missouri Plaza 33.30704, -104.7497**
12. **New Mexico Military Institute Historic District 33.33136, -104.52554**
13. **Ozark Trails Marker at Lake Arthur 33.00011, -104.36626**
14. **Patrick Floyd Garrett House 33.40399, -104.43839**
15. **Rio Felix Bridge 33.13109, -104.33615**
16. **Robert H. Goddard House 33.43169, -104.50233**
17. **Saunders-Crosby House 33.38571, -104.52089**
18. **Slaughter Hill Ranch 33.3942, -104.50152**
19. **South Spring Ranch 33.34637, -104.46991**
20. **Urton Orchards 33.43469, -104.48639**
21. **Valley Meat 3845 Cedarvale Rd, Roswell, NM 88203**

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United States Department of Agriculture

June 28, 2013

Valley Meat Co LLC
3845 Cedarvale Rd.
Roswell, NM 88203

SENT VIA EMAIL
CERTIFIED - RETURN
RECEIPT REQUESTED
7012 3460 0001 7360 3414

A copy of your Application for Federal Meat Inspection, FSIS Form 5200-2, is enclosed. This application specifies the type of operation conducted at your establishment and contains your agreement and certification that you will conform strictly to applicable Federal law and regulations pertaining to meat inspection. Your Grant of Inspection, FSIS Form 5200-1, and your Hours of Operation Request/Approval, FSIS Form 5200-15, are also enclosed.

A survey of your establishment conducted on April 23, 2013, at the location listed above indicated compliance with the applicable requirements of the regulations under the Federal Meat Inspection Act. On June 14, 2013 you submitted a letter self-certifying compliance with the Clean Water Act and 9 C.F.R. § 304.2(c). Accordingly, inspection service is granted. The date of inauguration of inspection services at your establishment will be June 28, 2013, Please advise the Dallas District office as soon as possible concerning the date on which you intend to commence horse slaughter operations at your establishment so that we may schedule the assignment of one or more inspectors to your establishment.

In accordance with 9 C.F.R. § 304.3(b), this Conditional Grant of Inspection shall be issued for a period not to exceed 90 days from the date on which your establishment commences horse slaughter operations. During this 90 day period your establishment must validate its Hazard Analysis and Critical Control Point (HACCP) Plan and prepare and maintain written procedures for the recall of meat food products produced and shipped by the establishment (9 C.F.R. § 418.3). Upon successful validation, inspection will be granted in accordance with Part 304. This grant is valid only for the applicant listed above who is liable for any inspection overtime or holiday costs for the operation of the plant. Should the applicant decide to sell, rent, or lease this location, the applicant will continue to be liable for any changes until the District Manager receives written notification of the change.

In accordance with 9 C.F.R. § 305.2, slaughter of horses, mules, or other equines or preparation of products therefrom is required to be conducted under inspection in establishments separate from any establishment in which cattle, sheep, swine, or goats are slaughtered or processed. Therefore we have withdrawn your grant of inspection for 7299/P-7299 concurrently with the issuance of the grant of inspection for E-7299. Voluntary Suspension or Voluntary Withdrawal of Inspection Service, FSIS Form 5200-3 for 7299/P-7299 is enclosed.

Food Safety and Inspection Service
Office of Field Operations
Dallas District Office
1100 Commerce Street, Room 516
Dallas, TX 75242
Voice 214-767-8116 Fax 214-767-8230
An Equal Opportunity Provider and Employer

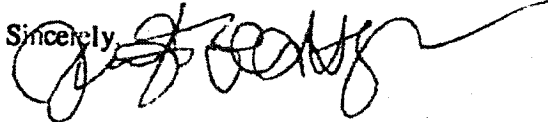
AR0002480

Valley Meat Co LLC
June 28, 2013

2

Your establishment is under the supervision of the Dallas District office. Please call this office if you need help in interpreting the provisions of the regulations. [REDACTED] is the Front Line Supervisor for your establishment. She can be reached at 303-396-[REDACTED]

Sincerely,



Jennifer Beasley-McKean, DVM
District Manager

Enclosures

U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE GRANT OF INSPECTION		1. DATE 06/28/2013	2. ESTABLISHMENT NO. E-7299
		3. DISTRICT/REGIONAL CODE 40-41	
4. NAME AND MAILING ADDRESS OF APPLICANT (Use 9 Digit Zip Code if Known) Valley Meat Co. LLC 3845 Cedarvale Road Roswell, NM 88203		5. LOCATION OF ESTABLISHMENT (PHYSICAL STREET ADDRESS) Telephone: 575-622-1214 Same as No. 4.	
7. TYPE OF INSPECTION (Check all that apply) <input checked="" type="checkbox"/> MEAT * <input type="checkbox"/> POULTRY <input type="checkbox"/> EGG <input type="checkbox"/> IMPORT		6. ADDRESS OF DISTRICT/REGIONAL OFFICE 1100 Commerce Street, Room 516 Dallas, TX 75242	
8. TYPE OF GRANT <input checked="" type="checkbox"/> CONDITIONAL (VERIFY HACCP PLAN) <input type="checkbox"/> FINAL			
9. DATE OF INAUGURATION OF SERVICE June 28, 2013			

A survey of your establishment at the location shown above (Item 4 or 5) indicates compliance with the applicable requirements of the regulations under the Federal Meat Inspection Act or the Poultry Products Inspection Act, or both. Accordingly, inspection service is granted.
 * as specified under remarks.

A copy of your Application for Federal Meat, Poultry or Import Inspection, Form FSIS 5200-2, is enclosed. This application specifies the type of operation conducted at your establishment and contains your agreement and certification that you will conform strictly to applicable Federal law and regulations pertaining to meat inspection, poultry inspection, or the importation of meat and poultry products.

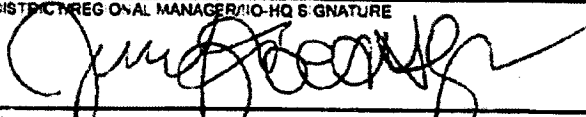
Your establishment is under the supervision of the District/Regional Office. Call the District/Regional Office if you need help in interpreting the provisions of the regulations.

* Catfish is included under the category "Meat", as per the 2008 Food Conservation and Energy Act

REMARKS:
 In accordance with the Code of Federal Regulations (CFR) Title 9, Parts 304.3(b), this Grant of inspection is issued with conditions for a period not to exceed ninety (90) days from the commencement of operations, during which time Establishment E-7299 must validate its Hazard Analysis and Critical Control Point (HACCP) plan(s). Upon successful validation, the conditions of this Grant of inspection will be removed, and inspection will be granted in accordance with 9 CFR 304.2.

This grant is valid only for the applicant listed above who is liable for any inspection overtime or holiday costs for the operation of the plant. Should the applicant decide to sell, rent, or lease this location, the applicant will continue to be liable for any charges until the District Manager receives written notification of the change. Slaughter and processing operations are conducted at this establishment.

_____ is the Frontline Supervisor. She may be contacted through the District Office in Dallas, Texas.

DISTRICT/REGIONAL MANAGER/IO-HQ SIGNATURE 	PRINT NAME Jennifer Beasley-McKean, DVM
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According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0583-0153. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

U.S. DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE

Instructions: Submit this application to the District/Regional Office, Food Safety and Inspection Service, U.S. Department of Agriculture for Import Inspection requests. Complete all sections. If a section is not applicable, enter 'N/A' or 'None.' If additional space is needed for any item, attach sheet and number the item.

APPLICATION FOR FEDERAL INSPECTION
(Meat, Poultry, Egg Product, Calfish and Import Inspection)

SECTION I.		ESTABLISHMENT INFORMATION	
1. Date of Application 3-15-13	2. Type of Application <input type="checkbox"/> New <input type="checkbox"/> Change of Ownership <input type="checkbox"/> Change of Location <input checked="" type="checkbox"/> Application Extension		
3. Type of Inspection Required (Check box) <input checked="" type="checkbox"/> Meat <input type="checkbox"/> Poultry <input type="checkbox"/> Egg Product <input type="checkbox"/> Import		4. Form of Organization (Check box) <input type="checkbox"/> Individual <input type="checkbox"/> Cooperative Association <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC	
5. If Corporation, Name of State Where Incorporated N/A	6. Address of Corporate Headquarters N/A	7. Date Incorporated N/A	
8. Name of Applicant and Mailing Address (include zip code) Valley Meat Co LLC 3845 Cedarvale Rd Roswell, nm 88203		9. Federal Employer ID# [REDACTED]	11. Area Code and Telephone Number 575 622 1214
13. Actual Name of and Physical Address of Plant Valley Meat Co LLC 3845 Cedarvale Rd Roswell, nm 88203		10. Dun & Bradstreet # N/A	12. Firm's Code (Import Only) N/A
14. Mailing Address if Different from Item 8 (include zip code) N/A		15. Area Code and Telephone Number 575 622 1214	
16. Attach Limits or Establishment Premises to be under Federal Inspection (for egg plants attach blueprint) see attachment A			
17. Name and Establishment Number of other official establishments located in the same facility N/A		18. Doing Business As N/A	
19. Month and Year when establishment will be ready to operate under inspection March 2013		20. Comments N/A	

SECTION II.	TYPE OF OPERATION
MEAT AND POULTRY INSPECTION ACTIVITIES (Check all that apply.)	
21 A. Animals to be slaughtered when inspection is inaugurated (meat and poultry only)	
a. <input type="checkbox"/> Beef <input type="checkbox"/> Sheep <input type="checkbox"/> Goats <input type="checkbox"/> Swine <input checked="" type="checkbox"/> Equine <input type="checkbox"/> Chicken <input type="checkbox"/> Turkeys <input type="checkbox"/> Geese <input type="checkbox"/> Ducks <input type="checkbox"/> Guinea's <input type="checkbox"/> Squab <input type="checkbox"/> Rabbits	
b. <input type="checkbox"/> Raw - Ground (Non-Intact Products)	
c. <input checked="" type="checkbox"/> Raw - Not Ground (Intact Products)	
d. <input type="checkbox"/> Thermally Processed Commercially Sterile	
e. <input type="checkbox"/> Not Heat Treated - Shelf Stable	
f. <input type="checkbox"/> Heat Treated - Shelf Stable	
g. <input type="checkbox"/> Fully Cooked - Not Shelf Stable	
h. <input type="checkbox"/> Heat Treated but Not Fully Cooked - Not Shelf Stable	
i. <input type="checkbox"/> Product with Secondary Inhibitors - Not Shelf Stable	

EGG PRODUCTS INSPECTION

21 B. Check the type of product intended for inspection at the establishment (Check all that apply)

- a. Shell Egg Breaking
- b. Thermally Processed (Pasteurized heat treated)
 - Cans/Pails Flexible Pouches Jars Cartons Bag-n-Box Toles Tankers Other
- c. Not Heat Treated - Unpasteurized egg product only
- d. Heat Treated - Shelf Stable (Dried egg product, 50% Sugar Yolk)
- e. Heat Treated But Not Fully Cooked - not shelf stable (liquid and frozen egg products)

IMPORT INSPECTION

21 C. Species (Check all that apply)

- Meat Poultry Egg Products Calfish

22. Check the type of product intended for inspection at the establishment (Check all that apply)

- a. Raw - Non-Intact
 - Ground Other Non-Intact
- b. Raw - Intact
 - Carcasses: Beef Veal Veal Hide On Goats Pork Lamb
 - Mutton Equine Poultry Reptiles
 - Other: Cuts Boneless Manufacturing Meals Other Intact
- c. Thermally Processed Commercially Sterile
 - Cans Flexible Pouches Trays Jars
- d. Not Heat Treated - Shelf Stable
- e. Heat Treated - Shelf Stable
- f. Fully Cooked - Not Shelf Stable
 - Frozen from an APHIS restricted country (9CFR 94.4(b)) Frozen Perishable
- g. Heat Treated But Not Fully Cooked - Not Shelf Stable
- h. Product with Secondary Inhibitors - Not Shelf Stable
- i. Shell Eggs/Egg Products
 - Shell Eggs Liquid Frozen Dried

23 Mode of Transportation - Import Inspection Only (Check all that apply)

- Tankers Rail Cars Trucks Ocean Vessel Airline Other (Specify) _____

SECTION III OWNERSHIP AND MANAGEMENT INFORMATION

24. List all persons responsible connected with the applicant. Include all owners, partners, officers, directors, holders or owners of 10 per centum or more of voting stock and employees in a managerial or executive capacity in the business. Notify the Division Director or Import Inspection Division Director of any changes in the listing given.

Name and Title (Title - Indicate if partner or manager)	Present Home Address (Street and Number, City, State, Zip Code)	HOLDER OF 10% OR MORE VOTING STOCK (If Corp.)	
		YES	NO
Jose Hernandez / partner	[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>
Ricardo De los Santos / Mgr	[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

25. Enter the name of each person listed under item 24 who has been convicted in any Federal or State court of any felony. Enter the name of each person listed under item 24 who has been convicted in any Federal or State court of more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. Include the nature of the crime, the date of conviction and the court in which convicted. If none write "None."

Ricardo De los Santos - Criminal Trespass 1588 Amarillo Municipal Court - Fel
 Ricardo De los Santos - Res Burglary 1978 Tuhlant Municipal Court - Felony

26. List each conviction against the applicant (person, firm or corporation) in any Federal or State court of any felony. List each conviction against the applicant (person, firm or corporation) in any Federal or State court of more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. Include the nature of the crime, the date of conviction and the court in which convicted. If none write "None."

NONE

27. Sanitation Standard Operating Procedures have been developed for the establishment in accordance with § 416.12 of the regulations. (Check one)

YES NO

28. Applicant has been provided with a copy of this Privacy Act Notice. (Check one)

YES NO

29. Typed Name of Person Signing Application

Ricardo De los Santos

30. Signature

Ricardo De los Santos

31. Title

General Mgr

TO BE COMPLETED BY USDA, FSIS

32. Is this establishment presently under state inspection? (OFD only)

YES NO

33. Is this establishment to be under Talmadge-Aiken Act? (OFD only)

YES NO

34. Official Inspection Number Reserved

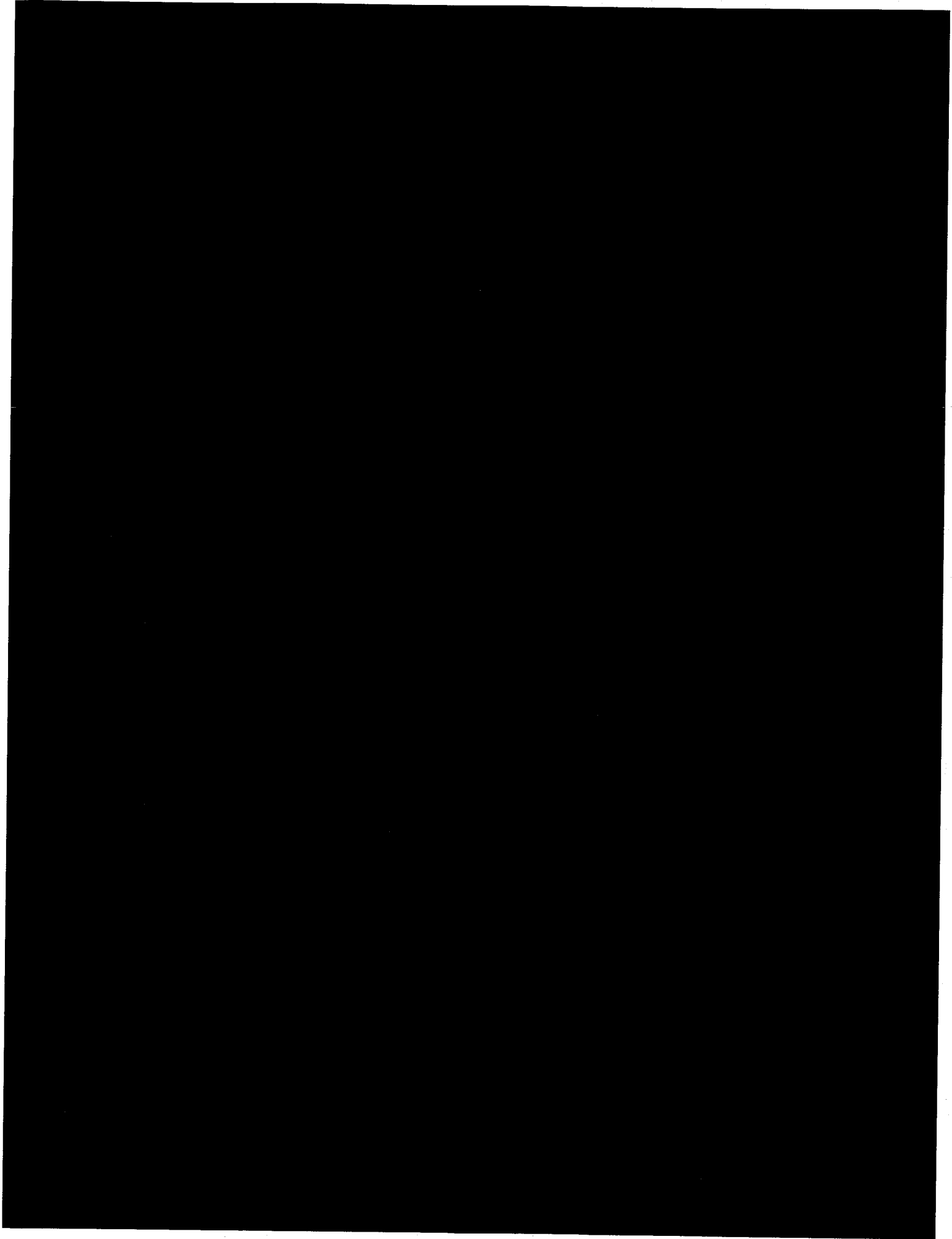
E-7299

35. Signature of Official

Jennifer Beasley-McKean

36. Date

DVM 6/28/13



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0583-0183. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

U. S. DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE

Est. E-7299

Effective: 6/28/13
HOURS OF OPERATION REQUEST/APPROVAL

1. NAME OF APPLICANT <i>Valley Meat Company</i>	2. DATE OF REQUEST <i>7/23/2013</i>	3. DISTRICT / HD-HEADQUARTER OFFICE <i>Dallas / 40</i>
4. MAILING ADDRESS OF APPLICANT <i>3845 Cedarval Road Roswell, NM 88203 9030</i>		<input checked="" type="checkbox"/> New (Attach to application form) <input type="checkbox"/> Update or Revision

HOURS OF OFFICIAL INSPECTION OPERATIONS REQUESTED - SHIFT 1

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time		<i>7:30 AM</i>	<i>7:30</i>	<i>7:30</i>	<i>7:30</i>	<i>7:30</i>	
Lunch Break Start		<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	
Lunch Break End		<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	
End Time		<i>4:00 PM</i>	<i>4:00</i>	<i>4:00</i>	<i>4:00</i>	<i>4:00</i>	

HOURS OF OFFICIAL INSPECTION OPERATIONS REQUESTED - SHIFT 2

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

5. SIGNATURE OF APPLICANT <i>[Signature]</i>	6. PRINTED NAME <i>Ricardo De La Portas</i>
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HOURS OF OFFICIAL INSPECTION OPERATIONS GRANTED - SHIFT 1

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

HOURS OF OFFICIAL INSPECTION OPERATIONS GRANTED - SHIFT 2

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

Approved as submitted

7. PRINT NAME OF DISTRICT / HD - HEADQUARTER MANAGER <i>Jennifer Beasley-McKean, DVM</i>	8. SIGNATURE OF DISTRICT / HD - HEADQUARTER MANAGER <i>[Signature]</i>	9. DATE <i>6/28/13</i>
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FSIS FORM 5200-15 (1/19/2012)

U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE VOLUNTARY SUSPENSION OR VOLUNTARY WITHDRAWAL OF INSPECTION SERVICE		1. DATE 06/28/2013	2. ESTABLISHMENT NO. 7299/P-7299
		3. DISTRICT CIRCUIT CODE 40-41	
4. NAME AND MAILING ADDRESS OF APPLICANT Valley Meat Company LLC 3845 Cedarvale Rd. Roswell, NM 88203		5. LOCATION OF ESTABLISHMENT (if different from item 4) Same as No. 4.	
		6. ADDRESS OF DISTRICT OFFICE 1100 Commerce Street, Room 516 Dallas, TX 75242	
7. NATURE OF SUSPENSION (Check One) <input type="checkbox"/> VOLUNTARY <input type="checkbox"/> SEASONAL OR INTERMITTENT		8. DATE SERVICE SUSPENDED	9. DATE SERVICE WITHDRAWN 06/28/2013
		10. DATE SERVICE WILL BE REINSTATED	

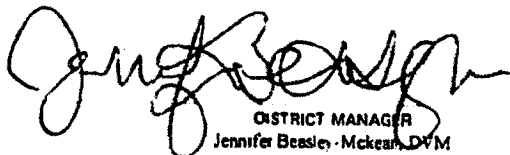
Grant of regular inspection or import inspection service and authority to use labels bearing the Department's inspection mark are hereby suspended or withdrawn for the reason shown below. The suspension or withdrawal is effective at the close of business on the date given above (Item 8 or 9). It will remain in effect until the reinstatement date specified in Item 10 has been reached or a new request is made and granted. Voluntary suspensions are granted for periods not in excess of 120 days; seasonal or intermittent suspensions are granted for not more than one year.

11. REASON FOR ACTION TAKEN:

- SUSPENSION:** As requested in your communication of _____
- WITHDRAWN:** As requested in your communication of _____
- OTHER AS SPECIFIED:** Withdrawn by FSIS upon issuance of Grant for E-7299.

REMARKS

Title 9, the Code of Federal Regulations, Part 305.2, Separation of Official Establishments, states in part, "(b) The slaughter or other preparation of products of horses, mules, or other equines required to be conducted under inspection pursuant to the regulations in this subchapter shall be done in establishments separate from any establishment in which cattle, sheep, swine, or goats are slaughtered or their products are prepared."


 DISTRICT MANAGER
 Jennifer Beasley-Mckean, DVM

WARNING: The Federal Meat Inspection Act and the Poultry Products Inspection Act prohibit the representation of meat, meat food products, poultry, or poultry products as officially inspected unless they have been so inspected. Accordingly, during any period of suspension, you may not use any official marks, labels, or packaging material on hand or otherwise represent the products as having been officially inspected. If service is withdrawn you are held responsible for the destruction or adequate obliteration of any official marks on packaging material remaining on hand.



United States Department of Agriculture

June 27, 2013

TO: Jennifer Bousley-McKean, District Manager
Dallas, Texas

FROM: Daniel Engeljohn, Assistant Administrator
Office of Field Operations

SUBJECT: Approval of Two Documents Specific to Consideration for a Grant of Inspection
for Equine Slaughter by Valley Meat Company LLC

Attached are two decision memos that I have stamped with today's date signifying my approval: National Environmental Policy Act Categorical Exclusion, and Endangered Species Act Section 7 Consultation. Also attached is a copy of an aerial shot of the site map for Valley Meat Company LLC.

Please file them with your documentation related to all the considerations associated with the request for a grant of inspection.

Attachments (3)

Food Safety and Inspection Service
1400 Independence Avenue, SW
Washington, DC 20250
Voice 202-720-3473 Fax 202-720-3858
An Equal Opportunity Provider and Employer

AR0002489

JUN 27 2013

Decision Memo--National Environmental Policy Act Categorical Exclusion

Application of Valley Meat Company, LLC, for a Grant of Federal Meat Inspection Services

Decision

It is my decision to grant federal meat inspection services to Valley Meat Company, LLC.

Description

Valley Meat Company, LLC (Valley Meat) is a small (7,290 square-foot) cattle slaughter and processing facility with a street address of 3845 Cedarvale Rd., Roswell, Chaves County, New Mexico. Valley Meat's zoning permit indicates that its facility is located on a 22-acre site about 12 miles east of Roswell and within an extraterritorial industrial zone that has been set aside in Chaves County for light industrial use. Its nearest neighbors are located approximately one mile to the east and one mile to the west of its facility. Valley Meat has existed as slaughter facility since 1982. Its current owner, Mr. Ricardo de los Santos, has conducted federally inspected commercial slaughter of cattle, veal calves, goats, sheep, lambs, and swine at this facility more or less continuously since January, 1991.¹ On March 2, 2012, Valley Meat filed an application with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), to modify its grant of inspection to receive inspection services for the commercial slaughter of horses, mules, and other equines.

Proposed Action

The proposed action is to grant federal meat inspection services for commercial horse slaughter operations at Valley Meat. The Federal Meat Inspection Act (FMIA) requires government inspectors to conduct an ante-mortem inspection of all amenable species, including cattle, sheep, swine, goats, horses, mules and other equines (21 U.S.C. § 603); a post-mortem inspection of the carcasses and parts of all amenable species (21 U.S.C. § 604); and an inspection of meat food products during processing operations (21 U.S.C. § 605) in establishments that sell or distribute in commerce meat that is intended for human consumption. Horses, mules, and other equines have been among the livestock species that are amenable to the FMIA since it was amended by the Wholesome Meat Act in 1967.^{2 3} The FMIA and its implementing regulations in 9 C.F.R.

¹Valley Meat has operated as a slaughter establishment under several previous grants of federal inspection. It received its first grant in 1982 when it was known as Pecos Valley Meat Company (Pecos) and was under different ownership. Mr. de los Santos took over ownership of Pecos and obtained his first grant of inspection on January 8, 1991. He obtained his second (and still current) grant on September 1, 2010, after adding Mr. Jose Hernandez as a second owner and partner and changing the name of the slaughter plant to Valley Meat. Valley Meat has not operated under its current grant since April 13, 2012.

²FSIS regulations require that establishments that slaughter horses, mules, and other equines must be completely separate from any establishment that slaughters cattle, sheep, swine, or goats.

³FSIS temporarily suspended inspection of horse slaughter facilities from 2006 to 2012 because Congress prohibited FSIS from expending funds to pay for ante-mortem inspection of equines in each of those years, but the underlying statute requiring federal inspection of horse slaughter has never been amended or repealed. In 2012 Congress restored federal funding of ante-mortem inspection of horses at commercial horse slaughter plants. Therefore, issuing a grant of inspection for commercial horse slaughter is not precedent setting, but rather, a return to the status quo ante.

AR0002490

parts 302, 304, 307, 416, and 417 require facilities that wish to engage in the commercial slaughter of amenable species to produce meat intended for human consumption and sale or distribution in interstate commerce to apply to FSIS for a grant of federal inspection services and they establish criteria for determining the eligibility of the applicant to receive inspection services.

FSIS is also required to conduct an examination and inspection of the method by which amenable species, including horses, are slaughtered and handled in connection with slaughter in order to ensure that the establishment is in compliance with the Humane Methods of Slaughter Act (21 U.S.C. § 603) (HMSA). The HMSA was enacted to prevent the needless suffering of livestock, to improve products and economics in slaughter operations, and to produce other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. FSIS has implemented and enforces regulations under the HMSA (9 C.F.R. part 313).⁴

The National Environmental Policy Act and FSIS' Categorical Exclusion

The National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) (NEPA) and the Counsel of Environmental Quality implementing regulations (40 C.F.R. Parts 1501-1508) require all federal agencies to prepare an assessment of the environmental impact of a proposed agency action (called an environmental assessment, or EA) (40 C.F.R. §§ 1501.3 and 1501.4(b)). Based on the EA, NEPA further requires federal agencies to prepare an environmental impact statement (EIS) for major federal actions significantly affecting the quality of the human environment (42 U.S.C. § 4332(2)(c) and 40 C.F.R. § 1504.1(c)). However, federal agencies may identify classes of actions that normally do not require the preparation of either an EA or an EIS because such actions do not have a significant effect on the human environment, either individually or cumulatively (40 C.F.R. § 1507.3(b)(2)). Classes of actions that have no significant environmental effect, either individually or cumulatively, are said to be categorically excluded from NEPA requirements (40 C.F.R. § 1508.4). Despite allowing federal agencies to identify classes of action that are categorically excluded from NEPA requirements, NEPA still requires an agency to determine and inform the agency decision maker on whether or not there are any potential environmental impacts that may result from a proposed action of that agency.

⁴The Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) is an animal welfare statute governing the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States. In 1998, the Secretary issued regulations (9 C.F.R. part 88) that establish safety standards for conveyances being used to transport equines to slaughter; define the duties and responsibilities of owner/shippers prior to loading equines onto the conveyance, during the actual commercial transportation of said equines to the slaughter plant, and upon their arrival at a slaughter plant; and set forth paperwork and back tagging requirements for equines being commercially transported to slaughter. This program is administered by USDA's Animal and Plant Health Inspection Service, whose personnel historically have conducted their inspections of slaughter horses and the conveyances in which they are transported to slaughter upon the horses' arrival at a slaughter facility.

USDA's NEPA implementing regulations are found in 7 C.F.R. § 1b. These regulations list FSIS as an agency that conducts programs and activities that have been found to have no individual or cumulative effect on the human environment, such that FSIS is categorically excluded from the requirements of preparing procedures to implement NEPA and its actions are categorically excluded from the preparation of an EA or an EIS unless the FSIS Administrator determines that an action may have a significant environmental effect (7 C.F.R. § 1b.4).

When a federal agency's action is merely ministerial as opposed to discretionary and the agency lacks discretion to affect the outcome of its action, there is no major federal action that triggers NEPA requirements. A grant of federal inspection under the FMIA is purely ministerial because, if a commercial horse slaughter plant meets all of the statutory and regulatory requirements for receiving a grant of federal inspection services, FSIS has no discretion or authority under the FMIA to deny the grant on other grounds or to consider and choose among alternative ways to achieve the agency's statutory objectives. Therefore, a grant of federal inspection services under the FMIA is not a major federal action that is subject to NEPA requirements.

A grant of federal inspection likewise does not and will not allow FSIS to exercise sufficient control over the commercial horse slaughter activities at Valley Meat such that the grant will constitute a major federal action that triggers NEPA requirements. The sole purpose of federal meat inspection is to protect public health and welfare by ensuring that any meat produced for human consumption and sale or distribution in commerce is wholesome, not adulterated, properly packaged, and properly labeled as to species, quantity, and point of origin, and the FMIA does not authorize FSIS to regulate a commercial horse slaughter facility's slaughter activities beyond that which is necessary to achieve this purpose. Accordingly, the FMIA authorizes FSIS inspectors to conduct ante-mortem inspection of horses to ensure that they are not dead or dying, diseased, or non-ambulatory, and that they are not inhumanely handled or slaughtered. It likewise authorizes FSIS inspectors to conduct post-mortem inspection of the carcasses and meat food products resulting therefrom to ensure that the carcasses and meat are wholesome, unadulterated, and fit for use as human food. In addition, the FMIA authorizes FSIS to require commercial slaughter plants to maintain sanitary conditions with respect to the conduct of commercial slaughter, meat preparation, and meat packaging operations, the proper storage of carcasses and the meat products derived therefrom, and the storage and proper disposal of condemned or inedible materials. The FMIA further authorizes FSIS to require commercial slaughter plants to develop hazard analysis and critical control point plans that identify and prevent or control for potential food safety hazards at each step of the slaughter process. All FSIS inspectors assigned to conduct federal meat inspection at Valley Meat's facility will perform these duties in accordance with the policies and procedures set forth in several FSIS directives and notices, including but not limited to FSIS Directive 6900.2 Rev. 2, *Humane Handling and Slaughter of Livestock*; FSIS Directive 6100.1 *Ante-Mortem Livestock Inspection*; FSIS Directive 6100.2, *Post-mortem Livestock Inspection*; and FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*. However, FSIS inspectors will not have any authority or control over the day-to-day operations of the slaughter plant save to the degree necessary to achieve the agency's mission to protect public health by ensuring that horse meat intended for use as human food is safe to eat and properly labeled.

Even if FSIS did have sufficient authority and control over commercial slaughter activities at a horse slaughter establishment such that a grant of federal inspection to such an establishment could constitute a major federal action, federal ante-mortem and post-mortem inspection of horses at Valley Meat would not be the legally relevant cause of the establishment's commercial horse slaughter activities or the impacts, if any, that such slaughter activities might have on the environment. As noted above, federal inspection under the FMIA is required for any meat that is produced for human consumption and for sale or distribution in interstate commerce, and Valley Meat has operated for about 20 years under a grant of inspection for the commercial slaughter of amenable species other than horses that has not been revoked or otherwise terminated. Valley Meat could resume the slaughter of other amenable species under its existing grant of inspection, so a decision not to grant Valley Meat's current application for federal inspection of commercial horse slaughter would not result in the shuttering of the slaughter plant or relieve its alleged environmental impacts. Furthermore, a modification of the existing grant of inspection so that it applies exclusively to the commercial slaughter of horses would not be a substantial change to the agency's actions pursuant to the grant but would preserve the status quo because FSIS inspectors would continue to follow the policies and procedures set forth in the directives cited above, regardless of the amenable species being slaughtered. It also would not be a substantial change to Valley Meat's commercial slaughter activities but would preserve the status quo because the environmental impacts resulting from the commercial slaughter of horses, if any, would not be significantly different from those resulting from the commercial slaughter of other amenable species. Finally, if the meat produced at a commercial horse slaughter plant is not intended for human consumption, or if it is intended for human consumption but for sale or distribution only in intrastate commerce rather than in interstate commerce, then the commercial horse slaughter and the effects thereof may proceed independently of a grant of federal ante-mortem and post-mortem inspection, and FSIS would have no ability to prevent them. In the present instance, Mr. de los Santos has indicated that he intends to prepare horse meat for human consumption and that his intended market is Mexico, so he may operate only subject to a grant of federal inspection.⁵ However, nothing in the FMIA precludes him from expanding his operation to include the preparation and sale of horse meat to pet food companies and zoos for non-human consumption. It thus is possible for Valley Meat to operate as a horse slaughter establishment, and possibly have an effect on the environment, without a grant of federal inspection. Accordingly, a grant of federal inspection services is not and cannot be the legally relevant cause of either the commercial slaughter activity or its environmental impact, if any.

Based on the foregoing, a decision to grant federal inspection services to Valley Meat does not constitute major federal action that will significantly affect the quality of the human environment and thus does not trigger any requirements under NEPA. Nevertheless, given the high level of public interest in this particular issue, FSIS has examined several aspects of granting federal inspection services to Valley Meat to determine if the categorical exclusion applies to this action

⁵It is not possible for Mr. de los Santos to prepare horse meat for human consumption by consumers located only in the State of New Mexico without a grant of federal meat inspection services because New Mexico has been designated by the Secretary of Agriculture as a state in which the FMIA applies to all transactions involving meat intended for human consumption, even if the meat is sold and distributed only in intrastate commerce. See 9 C.F.R. part 331.

or if any unique conditions or extraordinary circumstances exist that would cause this action to have a significant environmental effect and trigger NEPA requirements. These aspects are the following:

-Impacts on Public Health and Safety. As explained above, federal inspection under the FMIA is intended solely to protect public health and safety by ensuring that meat and meat food products intended for use as human food are not adulterated or misbranded. However, the agency recognizes that the potential impacts of commercial horse slaughter on public health may cause concern with segments of the public. One such concern is the potential public health risks that could arise from the presence in horse meat of trace amounts of certain classes of drugs that have not been approved for use in animals that will or could be slaughtered to produce food for human consumption. The Humane Society of the United States and other horse protection groups contend that horses' status as companion animals that usually are not slaughtered in this country to produce human food means that most horses in the United States have been treated with antibiotics, anti-inflammatory drugs, growth hormones, and other substances that typically are not used on other food animals and for which the Federal Drug Administration has established no tolerances. These groups further contend that residues of these substances remain in horse tissues indefinitely, thus rendering any meat produced from U.S. horses unsafe for human consumption and constituting a threat to public health. FSIS has addressed this risk by implementing a new drug residue testing program that will screen the meat of slaughtered horses for drug residues before the meat is allowed to enter the food supply chain (see FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*). Horse meat that tests positive for drug residues will be marked U.S. condemned and will not be allowed to enter the stream of commerce. Instead, the meat will be disposed of by sending it to a rendering facility, thereby ensuring that it endangers neither public health and safety nor the local environment. Additionally, as described below, an overlapping scheme of federal, state, and local environmental laws and ordinances will further ensure that the waste products generated by Valley Meat's commercial horse slaughter activities are properly disposed of and will not enter the human food supply chain or the local environment. Therefore, a decision to grant federal inspection to Valley Meat will safeguard public health and safety by ensuring that commercial horse slaughter at Valley Meat has no more potential to have a significant impact on public health and safety than did the commercial slaughter of cattle, pigs, sheep, and goats that preceded it.

--Wildlife Hazards. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not create a wildlife hazard.

-Impacts on Wild and Scenic Rivers and U.S. Waters and Wetlands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect a river segment that is listed in the Wild and Scenic River System or National Rivers Inventory. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact federal or state regulated or non-jurisdictional wetlands.

-Impacts on Energy and Natural Resources. FSIS has determined that commercial horse

slaughter activities at Valley Meat and/or federal inspection thereof will not have a significant impact on energy and other natural resource consumption.

--Impacts on Public Parks, Recreation Areas, Wildlife/Waterfowl Refuges, Historical Sites, and Other Publicly Owned Lands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impacts on any publicly owned land from a public park, recreation area, wildlife or waterfowl refuge, or historical site of national, state, or local significance.

In its June 2011 report on the unintended consequences of the cessation of commercial horse slaughter in the United States, the General Accounting Office (GAO) found that there has been an increase in horse abandonment on private or state park land since 2007. It likewise found an increase in horse abandonment on federal lands, including national parks and Indian reservations. The abandonment of horses on these lands results in over-grazing that degrades the land and puts environmental stress on other species that compete with horses for the same food sources. Horse abandonment on these and other federal lands that maintain populations of wild horses increases the chance that the abandoned horses will introduce equine diseases to the wild herds. The increasing numbers of unwanted horses also complicate the Bureau of Land Management's efforts to manage herds of wild horses and burros on federal lands by making it more difficult for the agency to adopt out the horses and burros that it removes from federal lands. Based on the foregoing, commercial horse slaughter at Valley Meat and other horse slaughter plants has the potential to reduce the horse overpopulation in the United States while providing owners of unwanted horses with an economically viable and an environmentally sustainable alternative to horse abandonment as a method of disposing of their unwanted horses.

FSIS has also made the following findings required by other laws:

--Clean Air Act. Section 176(c)(1) of the Clean Air Act (42 U.S.C. § 7401) requires federal agencies to assure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards that the Environmental Protection Agency (EPA) has set for certain criteria pollutants, such as sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, lead, and particulate matter. See 40 C.F.R. part 50. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not increase the frequency or severity of any existing violations of standards for ambient air quality, result in any new violations of said standards, or prevent or delay the timely attainment of said standards in the area of concern.

--Clean Water Act. Following section 401(a) of the Clean Water Act (33 U.S.C. § 1341) (CWA), 9 C.F.R. § 304.2(c)(1) requires any applicant for federal meat inspection at an establishment where the operations thereof may result in any discharge into navigable waters as defined by the CWA to provide the Administrator, FSIS, with certification, obtained from the State in which the discharge will originate, that there is reasonable assurance that said operations will be conducted in a manner that will not violate the applicable water quality standards. On June 14, 2103, Mr. de los Santos provided the Administrator, FSIS, with an attestation that horse slaughter operations at Valley Meat will not result in any discharge into any navigable waters as

defined by the CWA. Mr. de los Santos also provided the Administrator, FSIS, with a copy of a National Pollution Discharge Elimination System (NPDES) Form 3510-11, No Exposure Certification for Exclusion from NPDES Storm Water Permitting, dated May 10, 2013, which he also submitted to EPA pursuant to section 402 of the Clean Water Act (33 U.S.C. § 1342) and its accompanying regulations (*see* 40 C.F.R. § 122.26(g)). This form notifies that EPA that Valley Meat does not require permit authorization for its storm water discharges associated with industrial activity.

--**Endangered Species Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact, either directly or indirectly, on any federally or state-listed or proposed endangered species of flora and fauna or impact critical habitat. According to the U.S. Fish and Wildlife Service (FWS), there are no known threatened or endangered species or designated critical habitat in the immediate vicinity of Valley Meat's slaughter facility. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact affect other biotic communities or habitat not protected by the Endangered Species Act.

It should be noted that any grant of federal inspection for commercial horse slaughter at Valley Meat will not be the issuance of a new grant, but instead will be a modification of an existing grant of inspection for the commercial slaughter of other amenable species under the FMIA (*e.g.*, cattle, sheep, goats, and pigs) at the same facility. Consistent with the response of FWS, the commercial slaughter of other amenable species occurred more or less continuously at Valley Meat's facility for more than 20 years with no discernible effects on listed endangered species or their designated critical habitat. Furthermore, there will no significant difference between the methods that Valley Meat will use to conduct commercial horse slaughter at its facility and the methods that it previously used to conduct the slaughter of other amenable species. Therefore, there is no reason to believe that the conversion of Valley Meat's facility to a dedicated commercial horse slaughter plant will have any more impact on endangered species and their critical habitat than did the prior commercial slaughter of other amenable species.

--**Migratory Bird Treaty Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect species protected under the Migratory Bird Treaty Act.

--**National Historic Preservation Act.** The National Register of Historic Places lists 19 sites located inside the Roswell, New Mexico, multiple resource area (MRA). Of these, only two, the Patrick Floyd Garret House and the South Spring Ranch, are located within the extraterritorial industrial zone, but both are located slightly more than three (3) miles from Valley Meat's facility. Therefore, FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact any historic or cultural property or resources protected by the National Historic Preservation Act.

In 2009, a coalition of northwest Indian tribes reported to the General Accounting Office that the increase in horse abandonments on tribal lands, combined with the sizable populations of wild horses that already existed on their lands, both increased the degradation of the land caused by

over-grazing and complicated efforts to restore native and religiously-significant plant species on tribal lands. Commercial horse slaughter at Valley Meat and other commercial horse slaughter plants thus has the potential to have a beneficial effect on the cultural resources of American Indian tribes whose tribal lands are being degraded by a combination of an overpopulation of wild horses and large scale abandonment of unwanted horses on their lands.

--**Federal Farmland Protection Policy Act.** FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not involve the acquisition or use of farmland protected by the Federal Farmland Protection Policy Act that would be converted to non-agricultural use.

--**Humane Methods of Slaughter Act.** As previously noted, Valley Meat's commercial horse slaughter operations will be subject to the humane handling requirements found in section 603(b) of the FMIA (21 U.S.C. § 603(b)) and the regulations promulgated thereunder (9 C.F.R. part 313). On February 24, 2012, FSIS suspended Valley Meat's grant of federal inspection for inhumane handling of cattle, but the suspension was put into abeyance with a letter dated February, 29, 2012. The firm ceased all slaughter operations in March 2012 and has not resumed slaughter under federal inspection. FSIS subsequently terminated its administrative enforcement action against Valley Meat with a Letter of Warning dated September 28, 2012.

--**State and Local Laws.** As previously noted, Valley Meat's facility is located inside an extraterritorial industrial zone in Chaves County. The county requires slaughter facilities to be built in an industrial area away from residential areas in order to prevent nuisances such as noise and odors (Chaves County, NM, Extraterritorial Zoning Ordinance art. 14 (2005)). FSIS has no information to believe that the location of this industrial area or the facilities operating therein has ever been questioned or challenged on the ground that it impinges on any natural resources, ecologically critical areas, or historical, archaeological, or cultural sites located in and around this area.

The property where Valley Meat's facility is located was re-zoned in 1982 from agricultural land to an industrial area for food processing and wholesale distribution. Valley Meat's facility initially was approved by the Zoning Commission as a packing facility for cattle, sheep, and hogs. Before allowing the property to be re-zoned, the Zoning Commission considered the impact of the slaughter facility upon the public health, safety and welfare of the community; the existing and anticipated traffic flows; parking conditions, setbacks, and height; landscaping and screening; open spaces; signage; lighting; and other items. The transition of Valley Meat's operations from the slaughter of cattle to the slaughter of horses will not change the impacts that already have been considered by the zoning commission.

Valley Meat's waste disposal is governed by New Mexico's Solid Waste Act (N.M. Stat. Ann. 74-9-1 *et seq.*) (SWA) and its accompanying regulations (N.M. Code R. 20.9.2 through 20.9.10). It is a violation of the SWA to store, process, or dispose of solid waste in an unapproved manner and to dispose of any solid waste in a place other than a solid waste facility that meets the requirements of the SWA and its accompanying regulations (N.M. Stat. Ann. 74-9-38; N.N. Code R. 20.9.2.10A(1), (3)), and disposing of solid waste in a manner that harms the

environment or endangers public health or safety can result in a fine of up to \$5000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-9-38 and 74-8-31(3) and (5)). On January 22, 2010, FSIS asked the New Mexico Environmental Department's (NMED's) Solid Waste Bureau to investigate a large compost pile of cattle offal and other inedible parts that the plant was maintaining just off the slaughter plant's official premises. On August 2, 2012, NMED initiated an administrative action against Valley Meat seeking an Administrative Compliance Order directing it to clean up the compost pile. On November 16, 2012, NMED and Valley Meat settled the administrative action with a Final Stipulated Order that required Valley Meat to develop a plan for removing the compost pile and taking it to a landfill or other approved site within 45 days and imposed a civil penalty. Valley Meat paid its civil penalty in full on January 8, 2013, and NMED terminated the enforcement action. Valley Meat currently does not have a composting permit from NMED, as required by N.M. Code R. 20.9.3.27, and thus is not authorized under the SWA to compost any waste materials generated by its slaughter and processing activities. It has contracted with an inedible rendering company to pick up and dispose of inedible and condemned materials produced by commercial horse slaughter activities. Additionally, if FSIS issues Valley Meat a grant of federal inspection for commercial horse slaughter, FSIS will post a notice on the inspection office bulletin board alerting agency inspectors that composting solid waste at Valley Meat is prohibited and that the inspectors should notify NMED immediately if they observe composting on Valley Meat's premises.

Valley Meat's disposal of wastewater and effluent, including blood, is governed by New Mexico's Water Quality Act (N.M. Stat. Ann. 74-6-1 *et seq.*) (WQA) and its Water Quality Control Commission (WQCC) regulations (N.M. Code R. 20.6.2). Failure to comply with the WQA and its regulations may result in a fine of up to \$15,000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-6-10). The WQCC regulations require establishments that propose to construct or modify any sewerage system to file plans and specifications of the construction or modification with the Ground Water Quality Bureau for discharges that may affect ground water, and to file the same with the Surface Water Quality Bureau for discharges that may affect surface water (N.M. Code R. 20.6.2.1202). The regulations also require establishments that discharge wastewater or effluent into ground water to apply for a discharge permit, DP-236 (N.M. Code R. 20.6.2.3104). If the holder of a discharge permit wishes to modify its permit, it must apply for said modification at least 120 days before the permit expires (N.M. Code R. 20.6.2.3106). In November, 1982, Valley Meat was issued a DP-236 for the discharge of up to 8,000 gallons of agricultural wastewater per day to a treatment and disposal system, and this permit was renewed or modified several times before expiring on May 19, 2009. On June 3, 2010, Mr. de los Santos applied for a renewal of his DP-236, and on May 31, 2013, the Ground Water Quality Bureau published a draft DP-236 for Valley Meat on NMED's website. The website stated that NMED would allow thirty (30) days from the date of publication of the draft discharge permit for interested parties to submit comments on the permit. It further stated that NMED will conduct a hearing on the renewal request if NMED determines that there is sufficient public interest in convening a hearing. Because the DP-236 is required by state rather than federal law, neither the notice and comment period nor a public hearing, if any, precludes FSIS from granting federal inspection services to Valley Meat if the agency determines that Valley Meat has met all other applicable federal requirements.

If NMED renews Valley Meat's DP-236, most of the water used by Valley Meat will become wastewater that ultimately will be discharged into the establishment's treatment and disposal system. Some of the blood produced by its slaughter operations likewise will drain into the establishment's treatment and disposal system.⁶ Valley Meat uses a septic tank and lagoons to treat and dispose of its wastewater and effluent. The soil conditions found in and around Chavez County are conducive to the use of septic systems because the soil is moderately permeable, which allows for effluent absorption without over-saturation. The soil also has thick, impermeable layers of clay that protect the area's shallow aquifers. Therefore, the wastewater used in and blood generated by Valley Meat's commercial horse slaughter operations should not impact the local ground and surface water.

Conclusion.

Based on the foregoing, FSIS finds no unique conditions or extraordinary circumstances of the proposed action to grant federal meat inspection services to Valley Meat that would cause this action to have a significant environmental effect. Therefore, in accordance with 7 C.F.R. § 1b.4, the proposed action is categorically excluded from the preparation of an EA or an EIS.

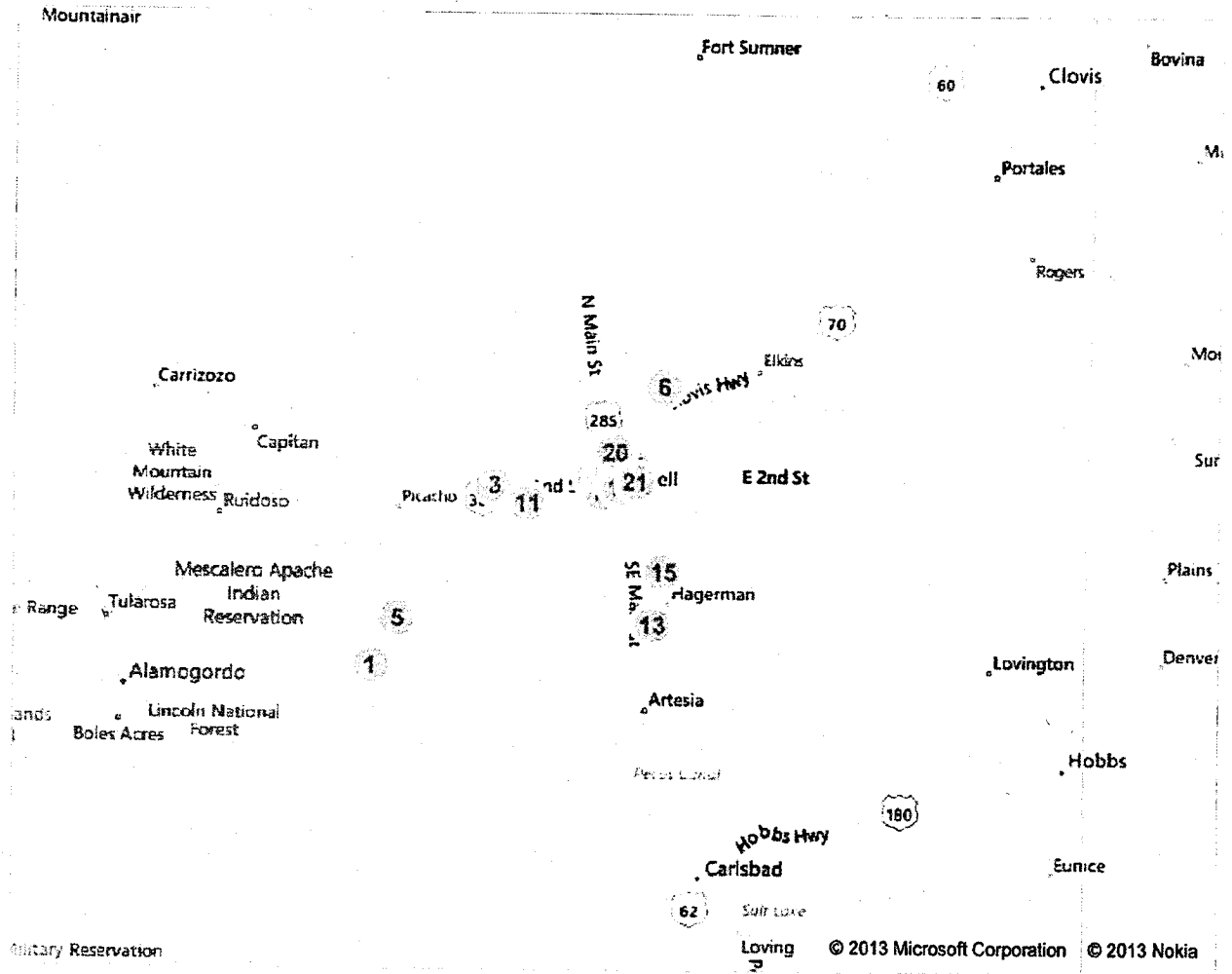
⁶Some opponents of commercial horse slaughter have claimed that horses have, pound-for-pound, twice as much blood volume as cows, and that the blood produced by commercial horse slaughter will overwhelm any waste water disposal system. According to FSIS veterinarians, the blood volume of the average horse ranges from 6.14% to 8.63% of live animal weight, as opposed to 6.75% of live animal weight for the average cow, and thus is not appreciably different from that of cows. Furthermore, the volume of horse blood that commercial horse slaughter at Valley Meat is likely to produce will be a function of the sizes and breeds of the horses that are slaughtered there and the volume of horse slaughter and thus is highly speculative. As noted above, Valley Meat is located 12 miles from the nearest municipality and relies on septic tanks and lagoons for waste water disposal, rather than Roswell's waste water disposal system. Given the speculative nature of the horse slaughter opponents' claims about horse blood volumes, Valley Meat's distance from Roswell, and the nature of Valley Meat's waste water and disposal system, there is no reason to believe that Valley Meat's waste water and disposal system is inadequate to handle the volume of horse blood that is likely to be produced by commercial horse slaughter operations at its facility.



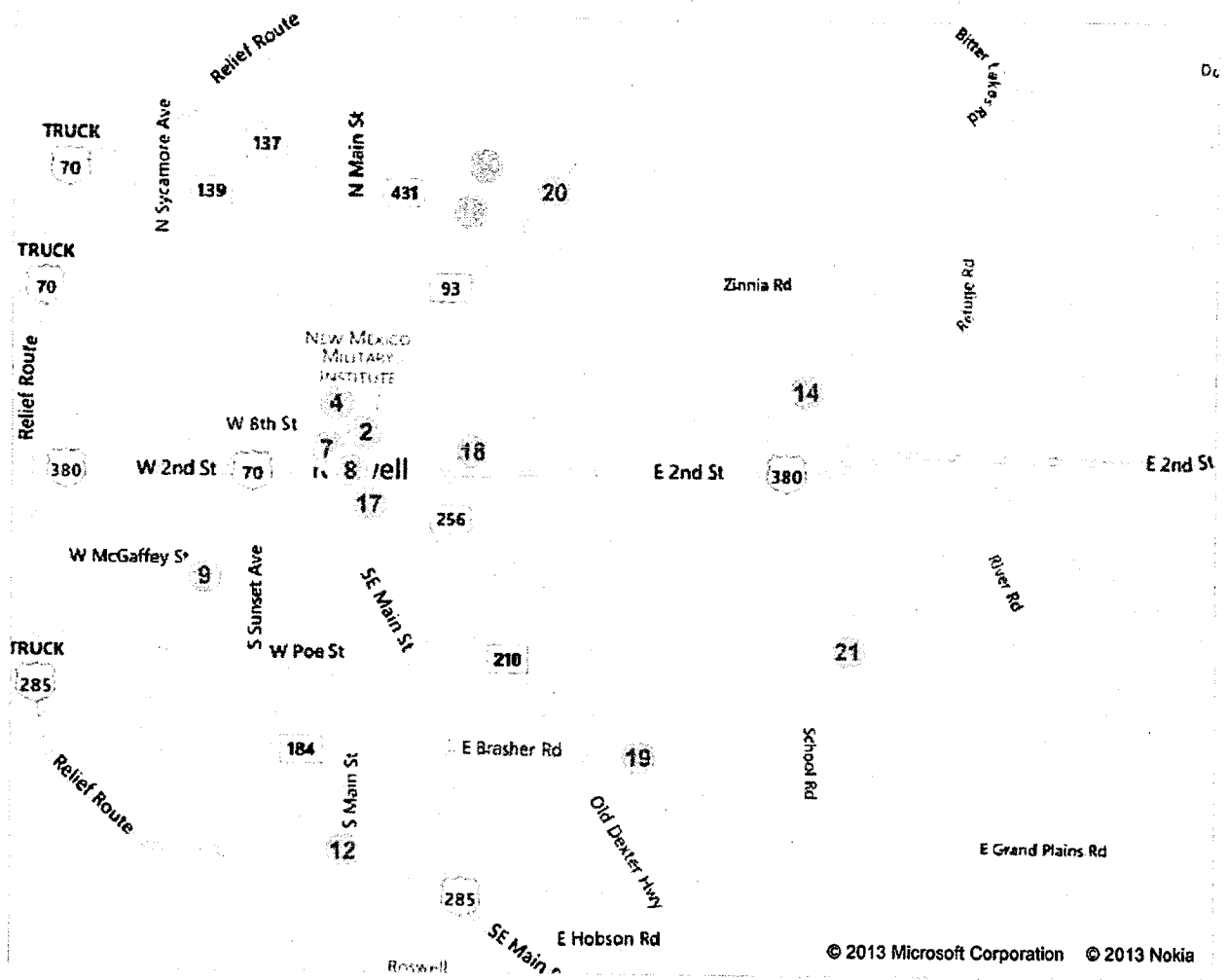
Valley Meat

1. **CA Bar Ranch 32.89407, -105.2244**
2. **Courthouse 33.39713, -104.52167**
3. **Diamond A Ranch 33.35178, -104.85273**
4. **Historic District 33.40151, -104.52709**
5. **Flying H Ranch 33.01165, -105.1398**
6. **Frazier, New Mexico 33.59787, -104.33247**
7. **James Phelps White House 33.39433, -104.52895**
8. **Louise Massey House 33.39097, -104.52463**
9. **Millhiser--Baker Farm 33.37397, -104.55146**
10. **Milne--Bush Ranch 33.43871, -104.49906**
11. **Missouri Plaza 33.30704, -104.7497**
12. **New Mexico Military Institute Historic District 33.33136, -104.52554**
13. **Ozark Trails Marker at Lake Arthur 33.00011, -104.36626**
14. **Patrick Floyd Garrett House 33.40399, -104.43839**
15. **Rio Felix Bridge 33.13109, -104.33615**
16. **Robert H. Goddard House 33.43169, -104.50233**
17. **Saunders-Crosby House 33.38571, -104.52089**
18. **Slaughter Hill Ranch 33.3942, -104.50152**
19. **South Spring Ranch 33.34637, -104.46991**
20. **Urton Orchards 33.43469, -104.48639**
21. **Valley Meat 3845 Cedarvale Rd, Roswell, NM 88203**

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NEW MEXICO

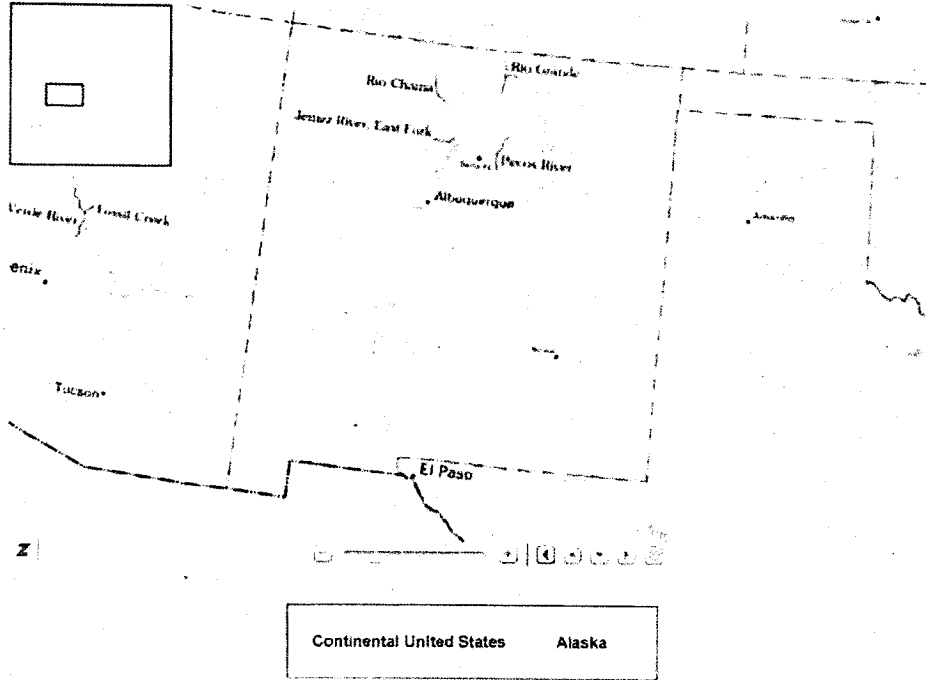
New Mexico has approximately 108,014 miles of river, of which 124.3 miles are designated as wild & scenic—approximately 1/10th of 1% of the state's river miles.

- **Jemez River (East Fork)**
- **Pecos River**
- **Rio Chama**
- **Rio Grande**



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JUN 27 2013

Decision Memo—Endangered Species Act Section 7 Consultation

Application of Valley Meat Company, LLC, for a Grant of Federal Meat Inspection Services

Decision

It is my decision that issuing a grant federal meat inspection services to Valley Meat Company, LLC, will not affect any species listed under the Endangered Species Act (16 U.S.C. § 1531 *et seq.*) or any critical habitat.

Description

Valley Meat Company, LLC (Valley Meat) is a small (7,290 square-foot) cattle slaughter and processing facility with a street address of 3845 Cedarvale Rd., Roswell, Chaves County, New Mexico. Valley Meat's zoning permit indicates that its facility is located on a 22-acre site about 12 miles east of Roswell and within an extraterritorial industrial zone that has been set aside in Chaves County for light industrial use. Its nearest neighbors are located approximately one mile to the east and one mile to the west of its facility. Valley Meat has existed as slaughter facility since 1982.¹ Its current owner, Mr. Ricardo de los Santos, has conducted federally inspected commercial slaughter of cattle, veal calves, goats, sheep, lambs, and swine at this facility more or less continuously since January 1991. On March 2, 2012, Valley Meat filed an application with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), to modify its grant of inspection to receive inspection services for the commercial slaughter of horses, mules, and other equines.

Proposed Action Area and Proposed Action

The proposed action area is the Valley Meat facility as described above and the proposed action is to grant federal meat inspection services for commercial horse slaughter operations at Valley Meat. The Federal Meat Inspection Act (FMIA) requires Government inspectors to conduct an ante-mortem inspection of all amenable species, including cattle, sheep, swine, goats, horses, mules and other equines (21 U.S.C. 603); a post-mortem inspection of the carcasses and parts of all amenable species (21 U.S.C. 604); and an inspection of meat food products during processing operations (21 U.S.C. 605) in establishments that sell or distribute in commerce meat that is intended for human consumption. Horses, mules, and other equines have been among the livestock species that are amenable to the FMIA since the Act was amended by the Wholesome Meat Act in 1967.^{2 3} The FMIA and its implementing regulations in 9 CFR Parts 302, 304, 307,

¹ Error! Main Document Only. Valley Meat has operated as a slaughter establishment under several previous grants of federal inspection. It received its first grant in 1982 when it was known as Pecos Valley Meat Company (Pecos) and was under different ownership. Mr. de los Santos took over ownership of Pecos and obtained his first grant of inspection on January 8, 1991. He obtained his second (and still current) grant on September 1, 2010, after adding Mr. Jose Hernandez as a second owner and partner and changing the name of the slaughter plant to Valley Meat. Valley Meat has not operated under its current grant since April 13, 2012.

² FSIS regulations require that establishments that slaughter horses, mules, and other equines must be completely separate from any establishment that slaughters cattle, sheep, swine, or goats.

416, and 417 require establishments that wish to engage in the commercial slaughter of amenable species to produce meat intended for human consumption and sale or distribution in interstate commerce to apply to FSIS for a grant of federal inspection services, and they establish criteria for determining the eligibility of the applicant to receive inspection services.

FSIS is also required to conduct an examination and inspection of the method by which amenable species, including horses, are slaughtered and handled in connection with slaughter in order to ensure that the establishment is in compliance with the Humane Methods of Slaughter Act (21 U.S.C. 603) (HMSA). The HMSA was enacted to prevent the needless suffering of livestock, to improve products and economies in slaughter operations, and to produce other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. FSIS has implemented and enforces regulations under the HMSA (9 CFR Part 313).⁴

Section 7 Consultation under the Endangered Species Act

The Endangered Species Act (ESA) was enacted in 1973 "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species" (16 U.S.C. 1531(b)). To that end, section 7(a)(2) of the ESA (16 U.S.C. 1536(a)(2)) requires all federal agencies, in consultation with either the U.S. Fish & Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), to ensure that their actions are "not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of" any designated critical habitat. Section 7(a)(2) defines an "agency action" as "any action authorized, funded, or carried out" by a federal agency. The ESA's implementing regulations in 50 CFR Part 402 further provide that "[s]ection 7 and the requirements of this part apply to all actions in which there is *discretionary* federal involvement or control" (50 CFR 402.03 (italics added)).

Section 7 and its implementing regulations establish a process for determining the biological impacts of a proposed agency activity. An agency proposing an action must first determine

³FSIS temporarily suspended inspection of horse slaughter facilities from 2006 to 2012 because Congress prohibited FSIS from expending funds to pay for ante-mortem inspection of equines in each of those years, but the underlying statute requiring federal inspection of horse slaughter has never been amended or repealed. In 2012 Congress restored federal funding of ante-mortem inspection of horses at commercial horse slaughter plants. Therefore, issuing a grant of inspection for commercial horse slaughter is not precedent setting, but rather, a return to the status quo ante.

⁴The Commercial Transportation of Equine for Slaughter Act (7 U.S.C. 1901 note) is an animal welfare statute governing the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States. In 1998, the Secretary issued regulations (9 CFR Part 88) that establish safety standards for conveyances being used to transport equines to slaughter; define the duties and responsibilities of owner/shippers prior to loading equines onto the conveyance, during the actual commercial transportation of said equines to the slaughter plant, and upon their arrival at a slaughter plant; and set forth paperwork and back tagging requirements for equines being commercially transported to slaughter. This program is administered by USDA's Animal and Plant Health Inspection Service, whose personnel historically have conducted their inspections of slaughter horses and the conveyances in which they are transported to slaughter upon the horses' arrival at a slaughter facility.

whether the action "may affect" species that are listed as endangered or threatened under the ESA (50 CFR 402.14). If it is determined that the proposed action "may affect" a listed endangered or threatened species or designated critical habitat, the agency must pursue some form of consultation, either "formal" or "informal". "Informal" consultation is "an optional process that includes all discussions, correspondence, etc., between [FWS or NMFS] and the federal agency . . . designed to assist the [agency] in determining whether formal consultation is required" (50 CFR 402.13(a)). "If during informal consultation it is determined by the [agency], with the written concurrence of [FWS or NMFS], that the action is not likely to adversely affect listed species or critical habitat, the consultation process is terminated, and no further action is necessary" (Id.).

A decision to grant federal meat inspection services to a commercial horse slaughter plant is not an agency action that triggers a Section 7 consultation under the ESA. If a commercial horse slaughter plant meets all of the statutory and regulatory requirements for receiving a grant of federal inspection services, FSIS must issue the grant, and it does not have discretion to refuse the grant on other grounds. FSIS has no authority under the FMIA to consider the impact of a grant of federal inspection on species listed in the ESA or their designated habitat when determining whether an applicant is qualified to receive a grant, and it does not have the discretion to deny a grant of inspection services to a commercial horse slaughter plant because of the possibility that the slaughter activities performed there will jeopardize listed species or adversely affect their designated critical habitat. Therefore, a decision to grant federal meat inspection services to Valley Meat is not discretionary if the Administrator determines that Valley Meat meets all of the statutory and regulatory requirements for a grant of inspection, and said decision does not and will not trigger the Section 7 consultation requirement of the ESA

A grant of federal inspection for commercial horse slaughter activities at Valley Meat likewise does not and will not allow FSIS to exercise sufficient control over those activities to implement measures that will inure to the benefit of endangered or threatened species or their habitat. Pursuant to Sections 3 and 4 of the FMIA (21 U.S.C. 603 and 604), FSIS conducts federal ante-mortem inspection of horses to be slaughtered at the plant and federal post-mortem inspection of the horse carcasses and meat that are produced by said slaughter. The sole purpose of the federal meat inspection services under sections 3 and 4 of the FMIA is to protect public health and welfare by ensuring that any meat produced for human consumption and sale and transportation in commerce is wholesome, not adulterated, and otherwise fit for human consumption, as well as properly packaged and properly labeled as to species, quantity, and point of origin. Accordingly, the FMIA authorizes FSIS inspectors to conduct ante-mortem inspection of horses to ensure that they are not dead or dying, diseased, or non-ambulatory, and that they are not inhumanely slaughtered. It likewise authorizes FSIS inspectors to conduct post-mortem inspection of the carcasses and meat food products resulting therefrom to ensure that the carcasses and meat are wholesome, not adulterated, and fit for use as human food.

In addition, the FMIA authorizes FSIS to require commercial slaughter plants to achieve and maintain certain sanitary conditions with respect to the conduct of commercial slaughter, meat preparation, and meat packaging operations, the proper storage of carcasses and the meat products derived therefrom, and the storage and proper disposal of condemned or inedible materials. The FMIA further authorizes FSIS to require commercial slaughter plants to develop Hazard Analysis

and Critical Control Point plans that identify and prevent or control for potential food safety hazards at each step of the slaughter process. All FSIS inspectors assigned to conduct federal meat inspection at Valley Meat's facility will perform these duties in accordance with policies and procedures set forth in FSIS Directive 6900.2 Rev. 2, *Humane Handling and Slaughter of Livestock*; FSIS Directive 6100.1, *Ante-Mortem Livestock Inspection*; FSIS Directive 6100.2, *Post-mortem Livestock Inspection*; and FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*. However, FSIS inspectors will not have any authority or control over the day-to-day operations of the slaughter plant save to the degree necessary to achieve only the Agency's mission to protect public health by ensuring that horse meat intended for use as human food and sale or distribution in commerce is safe to eat and properly labeled. Therefore, a decision to grant federal meat inspection services to Valley Meat does not and will not render the commercial horse slaughter activities themselves an agency action that triggers the Section 7 consultation requirement of the ESA.

Even if FSIS did have sufficient statutory authority and control over commercial horse slaughter activities to trigger the duty to consult under Section 7 of the ESA, a modification of the existing grant of inspection so that it applies exclusively to the commercial slaughter of horses would not be a substantial change to the agency's actions pursuant to the grant but would preserve the status quo because FSIS inspectors would continue to follow the policies and procedures set forth in the directives cited above, regardless of the amenable species being slaughtered. Therefore, a decision to grant Valley Meat federal inspection for commercial horse slaughter will have no impact on threatened or endangered species or their designated habitat.

Finally, if the meat produced at a commercial horse slaughter plant is not intended for human consumption, or if it is intended for human consumption but for sale or distribution only in intrastate commerce rather than in interstate commerce, then the commercial horse slaughter and the effects thereof may proceed independently of a grant of federal ante-mortem and post-mortem inspection, and FSIS will have no ability to prevent them. In the present instance, Mr. de los Santos has indicated that he intends to prepare horse meat for human consumption and that his intended market is Mexico, so he may operate only subject to a grant of federal inspection.⁵ However, nothing in the FMLA precludes him from expanding his operation to include the preparation and sale of horse meat to pet food companies and zoos for non-human consumption. It thus is possible for Valley Meat to operate as a horse slaughter establishment without a grant of federal inspection. Accordingly, a grant of federal inspection services is not and cannot be the legally relevant cause of either the commercial slaughter activity or its impact, if any, on threatened or endangered species and their critical habitat.

Based on the foregoing, a decision to grant federal meat inspection services to Valley Meat does not and will not constitute a discretionary agency action that triggers any consultation requirements under Section 7 of the ESA. Nevertheless, given the fact that opponents of

⁵ It is not possible for Mr. de los Santos to prepare horse meat for human consumption by consumers located only in the State of New Mexico without a grant of federal meat inspection services because New Mexico has been designated by the Secretary of Agriculture as a state in which the FMLA applies to all transactions involving meat intended for human consumption, even if the meat is sold and distributed only in intrastate commerce. See 9 C.F.R. Part 331.

commercial horse slaughter have indicated their intention to challenge any grant of federal inspection for commercial horse slaughter at Valley Meat on ESA grounds, FSIS has engaged in informal consultation with FWS concerning the potential effects of commercial horse slaughter on endangered or threatened species and their critical habitat.⁶

On May 6, 2013, FSIS consulted the Aquatics Branch of FWS's Ecological Services Field Office in New Mexico to discuss whether commercial horse slaughter activities at Valley Meat or federal inspection thereof will have any impact, either directly or indirectly, on any federally or state-listed or proposed endangered species of flora and fauna or impact a critical habitat. Specifically, they discussed the species and critical habitats listed on FWS's Web site at http://www.fws.gov/southwest/es/newmexico/sbc_view_all_bc.cfm.

FSIS provided FWS with a map of Mr. de los Santos' property⁷ that indicated that his facility is located at 33° 21' N/ 104° 25' W. FSIS then described to FWS the activities that the Agency will conduct at this facility. Specifically, FSIS will provide inspection program personnel to the facility to examine horses before and after slaughter. FSIS will verify requirements for marking and labeling products and for certain slaughter and processing activities, such as plant sanitation. Furthermore, FSIS will collect samples and test for microbiological, chemical, and other types of contamination.

FSIS also described to FWS how Mr. de los Santos will slaughter horses at his facility. Horses will be sent to the facility in trucks. Mr. de los Santos will store the horses in holding pens until the horses can be brought into the facility for slaughter. Mr. de los Santos will not use any chemicals or sprays on the live horses. After slaughter, Mr. de los Santos will spray carcasses with [REDACTED] to limit microbial growth.

Valley Meat will use bleach and [REDACTED] (quaternary ammonium) from [REDACTED] to clean and sanitize the facility. The establishment will also use some insecticide to control flies around the facility.

The facility will use a septic system and lagoons to manage its liquid waste. The septic system will receive the raw sewage and other effluent from the establishment. In the septic tank, solids will be separated out of the raw sewage and partially digested by anaerobic bacteria. After primary treatment in the septic tank, liquid effluent will flow to the lagoons through a watertight pipe and discharge near the center of the bottom of the lagoons. There the wastewater will be further processed by aerobic bacteria. Neither the FMIA nor the grant of federal inspection for which Valley Meat is applying authorizes or mandates any of the foregoing. Rather, Valley Meat's management of its liquid waste is governed solely by federal and state clean water laws. Pursuant to the latter, the facility currently is applying for a renewal of its DP-236, a discharge permit from the State of New Mexico, for the discharge of up to 8,000 gallons of agricultural wastewater per day.

⁶ Consultation number 02ENNM00-2013-TA-0048.

⁷ Attachment 1.

Solid wastes will be stored at the establishment in an inedible area inside a freezer until the waste can be picked-up by a rendering company for disposal. The waste will be collected approximately three times per week.

FWS advised FSIS that there is no undisturbed native habitat and, therefore, no suitable habitat in or near Valley Meat's facility. FWS also did not believe that the establishment's use of chemicals to limit microbial growth and to clean and sanitize the facility would affect any listed species or their designated critical habitats because the establishment previously used these compounds with no discernible effects on listed species or their habitats.

FWS advised FSIS that the establishment's liquid and solid waste management system will not affect listed species or their critical habitats. Valley Meat's septic and lagoon system treats the facility's wastewater so that it is safe to use for irrigation on the land near the slaughter facility and will not contaminate the area's groundwater. In addition, sending the solid waste to an off-site rendering facility prevents any spillage that could impinge on a listed species' habitat. Furthermore, the listed species and critical habitats exist upstream from the facility so they would not be affected even if the groundwater was contaminated or solid waste was spilled.

FSIS has determined that there will be "no effect" on listed species or designated critical habitats because of commercial horse slaughter activities or federal inspection thereof and FWS concurs. Tables 1 and 2 summarize the potential listed species found on FWS's Web site, the effect determination, and the rationale for the determination.

Common Name	Scientific Name	Group	Status	Determination	Rationale
Lesser prairie-chicken	<i>Tympanuchus pallidicinctus</i>	Bird	Candidate	No Effect	No Suitable Habitat
Sprague's pipit	<i>Anthus spragueii</i>	Bird	Candidate	No Effect	No Suitable Habitat
Texas hornshell (mussel)	<i>Popenaias popeii</i>	Mollusc - Invertebrate	Candidate	No Effect	No Suitable Habitat
Wright's marsh thistle	<i>Cirsium wrightii</i>	Plant	Candidate	No Effect	No Suitable Habitat

Noel's amphipod Designated Critical Habitat	<i>Gammarus desperatus</i>	Arthropod - Invertebrate	Endangered	No Effect	No Suitable Habitat, No Critical Habitat in Action Area
Least Tern (Interior Population)	<i>Sterna antillarum</i>	Bird	Endangered	No Effect	No Suitable Habitat
Pecos gambusia	<i>Gambusia nobilis</i>	Fish	Endangered	No Effect	No Suitable Habitat
Black-footed ferret	<i>Mustela nigripes</i>	Mammal	Endangered	No Effect	No Suitable Habitat
Koster's springsnail Designated Critical Habitat	<i>Juturnia kosteri</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Pecos assiminea snail Designated Critical Habitat	<i>Assiminea pecos</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Roswell springsnail Designated Critical Habitat	<i>Pyrgulopsis roswellensis</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Kuenzler's hedgehog cactus	<i>Echinocereus fendleri</i> var. <i>kuenzleri</i> <i>Escobaria</i>	Plant	Endangered	No Effect	No Suitable Habitat

	(= <i>Coryphantha</i>)				
Northern aplomado falcon	<i>Falco femoralis septentrionalis</i>	Bird	Experimental, Non-essential Population	No Effect	No Suitable Habitat
Whooping Crane	<i>Grus americana</i>	Bird	Experimental, Non-essential Population	No Effect	No Suitable Habitat
Pecos bluntnose shiner Designated Critical Habitat	<i>Notropis simus pecosensis</i>	Fish	Threatened	No Effect	No Suitable Habitat and No Critical Habitat in Action Area
Pecos sunflower Designated Critical Habitat	<i>Helianthus paradoxus</i>	Plant	Threatened	No Effect	No Suitable Habitat and No Critical Habitat in Action Area

Table 2: Species of Concern in Chaves County					
Common Name	Scientific Name	Group	Status	Determination	Rationale
American peregrine falcon	<i>Falco peregrinus anatum</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Arctic peregrine falcon	<i>Falco peregrinus tundrius</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Baird's sparrow	<i>Ammodramus bairdii</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Bell's vireo	<i>Vireo bellii</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Black tern	<i>Chlidonias niger</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Northern goshawk	<i>Accipiter gentilis</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Western burrowing owl	<i>Athene cunicularia hypugaea</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Yellow-billed cuckoo	<i>Coccyzus americanus</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Greenthroat darter	<i>Etheostoma lepidum</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Headwater catfish	<i>Ictalurus lupus</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Rio Grande shiner	<i>Notropis jemezianus</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Black-tailed prairie dog	<i>Cynomys ludovicianus</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Desert pocket gopher	<i>Geomys arenarius</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Pecos River	<i>Ondatra</i>	Mammal	Species of	No Effect	No Suitable

muskrat	<i>zibethicus ripensis</i>		Concern		Habitat in Action Area
Swift fox	<i>Vulpes velox</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Western red bat	<i>Lasius blossevillii</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Pecos pupfish	<i>Cyprinodon pecosensis</i>	Fish	Under Review	No Effect	No Suitable Habitat in Action Area



U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

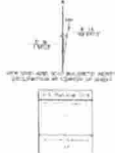


SOUTH SPRING QUADRANGLE
NEW MEXICO
7.5-MINUTE SERIES



Produced by the United States Geological Survey
Map Information Sheet of 1:24,000
Sheet Number: 1484 (N14W08E)
1:24,000 scale, 7.5-minute, 7.5-minute, 7.5-minute
1:24,000 scale, 7.5-minute, 7.5-minute, 7.5-minute

Agency: USGS
Project: 1484 (N14W08E)
Scale: 1:24,000
Date: 2010
Author: [Name]
Editor: [Name]



SCALE 1:24,000
1 INCH = 200 FEET
1:24,000

GRAPHIC SCALE: 1 INCH = 200 FEET
GRAPHIC SCALE: 1:24,000
The map was prepared in accordance with the standards of the
U.S. Geological Survey for 7.5-minute quadrangle maps.
A complete list of symbols and their meanings is on page 1-1.

ROAD CLASSIFICATION

Interstate	State Road	County Road	Local Road	Other
Interstate	State Road	County Road	Local Road	Other

SYMBOLS

Water	Barren	Barren	Barren	Barren
Water	Barren	Barren	Barren	Barren

SOUTH SPRING, NM
2010

@PJJ EOJ NAME = "WSP-JOB-000238"



United States Department of Agriculture

June 28, 2013

Valley Meat Co LLC
3845 Cedarvale Rd.
Roswell, NM 88203

SENT VIA EMAIL
CERTIFIED - RETURN
RECEIPT REQUESTED
7012 3460 0001 7360 3414

A copy of your Application for Federal Meat Inspection, FSIS Form 5200-2, is enclosed. This application specifies the type of operation conducted at your establishment and contains your agreement and certification that you will conform strictly to applicable Federal law and regulations pertaining to meat inspection. Your Grant of Inspection, FSIS Form 5200-1, and your Hours of Operation Request/Approval, FSIS Form 5200-15, are also enclosed.

A survey of your establishment conducted on April 23, 2013, at the location listed above indicated compliance with the applicable requirements of the regulations under the Federal Meat Inspection Act. On June 14, 2013 you submitted a letter self-certifying compliance with the Clean Water Act and 9 C.F.R. § 304.2(c). Accordingly, inspection service is granted. The date of inauguration of inspection services at your establishment will be June 28, 2013. Please advise the Dallas District office as soon as possible concerning the date on which you intend to commence horse slaughter operations at your establishment so that we may schedule the assignment of one or more inspectors to your establishment.

In accordance with 9 C.F.R. § 304.3(b), this Conditional Grant of Inspection shall be issued for a period not to exceed 90 days from the date on which your establishment commences horse slaughter operations. During this 90 day period your establishment must validate its Hazard Analysis and Critical Control Point (HACCP) Plan and prepare and maintain written procedures for the recall of meat food products produced and shipped by the establishment (9 C.F.R. § 418.3). Upon successful validation, inspection will be granted in accordance with Part 304. This grant is valid only for the applicant listed above who is liable for any inspection overtime or holiday costs for the operation of the plant. Should the applicant decide to sell, rent, or lease this location, the applicant will continue to be liable for any changes until the District Manager receives written notification of the change.

In accordance with 9 C.F.R. § 305.2, slaughter of horses, mules, or other equines or preparation of products therefrom is required to be conducted under inspection in establishments separate from any establishment in which cattle, sheep, swine, or goats are slaughtered or processed. Therefore we have withdrawn your grant of inspection for 7299/P-7299 concurrently with the issuance of the grant of inspection for E-7299. Voluntary Suspension or Voluntary Withdrawal of Inspection Service, FSIS Form 5200-3 for 7299/P-7299 is enclosed.

Food Safety and Inspection Service
Office of Field Operations
Dallas District Office
1100 Commerce Street, Room 516
Dallas, TX 75242
Voice 214-767-9116 Fax 214-767-8230
An Equal Opportunity Provider and Employer

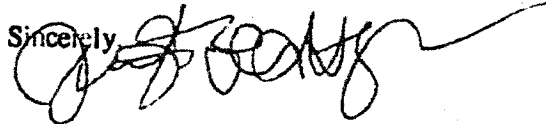
AR0002517

Valley Meat Co LLC
June 28, 2013

2

Your establishment is under the supervision of the Dallas District office. Please call this office if you need help in interpreting the provisions of the regulations. [REDACTED] is the Front Line Supervisor for your establishment. She can be reached at 303-396 [REDACTED]

Sincerely,



Jennifer Beasley-McKean, DVM
District Manager

Enclosures

U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE GRANT OF INSPECTION		1. DATE 06/28/2013	2. ESTABLISHMENT NO. E-7299
4. NAME AND MAILING ADDRESS OF APPLICANT (Use 9 Digit Zip Code if Known) Valley Meat Co. LLC 3845 Cedarvale Road Roswell, NM 88203		3. DISTRICT/REGIONAL CODE 40-41	
7. TYPE OF INSPECTION (Check all that apply) <input checked="" type="checkbox"/> MEAT * <input type="checkbox"/> POULTRY <input type="checkbox"/> EGG <input type="checkbox"/> IMPORT		5. LOCATION OF ESTABLISHMENT (PHYSICAL STREET ADDRESS) Telephone: 575-622-1214 Same as No. 4.	
8. TYPE OF GRANT <input checked="" type="checkbox"/> CONDITIONAL (VERIFY HACCP PLAN) <input type="checkbox"/> FINAL		6. ADDRESS OF DISTRICT/REGIONAL OFFICE 1100 Commerce Street, Room 516 Dallas, TX 75242	
9. DATE OF INAUGURATION OF SERVICE June 28, 2013			

A survey of your establishment at the location shown above (Item 4 or 5) indicates compliance with the applicable requirements of the regulations under the Federal Meat Inspection Act or the Poultry Products Inspection Act, or both. Accordingly, inspection service is granted.
 * as specified under remarks *

A copy of your Application for Federal Meat, Poultry or Import Inspection, Form FSIS 5200-2, is enclosed. This application specifies the type of operation conducted at your establishment and contains your agreement and certification that you will conform strictly to applicable Federal law and regulations pertaining to meat inspection, poultry inspection, or the importation of meat and poultry products.

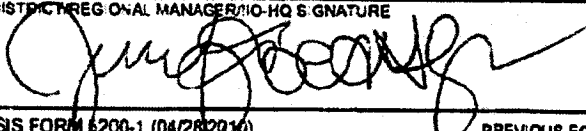
Your establishment is under the supervision of the District/Regional Office. Call the District/Regional Office if you need help in interpreting the provisions of the regulations.

* Catfish is included under the category "Meat", as per the 2008 Food Conservation and Energy Act

REMARKS:
 In accordance with the Code of Federal Regulations (CFR) Title 9, Parts 304.3(b), this Grant of inspection is issued with conditions for a period not to exceed ninety (90) days from the commencement of operations, during which time Establishment E-7299 must validate its Hazard Analysis and Critical Control Point (HACCP) plan(s). Upon successful validation, the conditions of this Grant of inspection will be removed, and inspection will be granted in accordance with 9 CFR 304.2.

This grant is valid only for the applicant listed above who is liable for any inspection overtime or holiday costs for the operation of the plant. Should the applicant decide to sell, rent, or lease this location, the applicant will continue to be liable for any charges until the District Manager receives written notification of the change. Slaughter and processing operations are conducted at this establishment.

_____ is the Frontline Supervisor. She may be contacted through the District Office in Dallas, Texas.

DISTRICT/REGIONAL MANAGER/DIO HQ SIGNATURE 	PRINT NAME Jennifer Beasley-McKean, DVM
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According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0583-0153. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

U.S. DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE

Instructions: Submit this application to the District/Regional Office, Food Safety and Inspection Service, U.S. Department of Agriculture for import inspection requests. Complete all sections. If a section is not applicable, enter 'N/A' or 'None.' If additional space is needed for any item, attach sheet and number the item.

APPLICATION FOR FEDERAL INSPECTION
(Meat, Poultry, Egg Product, Calfish and Import Inspection)

SECTION I.		ESTABLISHMENT INFORMATION	
1. Date of Application 3-15-13	2. Type of Application <input type="checkbox"/> New <input type="checkbox"/> Change of Ownership <input type="checkbox"/> Change of Location <input checked="" type="checkbox"/> Application Extension		
3. Type of Inspection Required (Check box) <input checked="" type="checkbox"/> Meat <input type="checkbox"/> Poultry <input type="checkbox"/> Egg Product <input type="checkbox"/> Import		4. Form of Organization (Check box) <input type="checkbox"/> Individual <input type="checkbox"/> Cooperative Association <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC	
5. If Corporation, Name of State Where Incorporated N/A	6. Address of Corporate Headquarters N/A	7. Date Incorporated N/A	
8. Name of Applicant and Mailing Address (include zip code) Valley Meat Co LLC 3845 Cedarvale Rd Roswell, nm 88203	9. Federal Employer ID# [REDACTED]	11. Area Code and Telephone Number 575 622 1214	
	10. Dun & Bradstreet # N/A	12. Firm's Code (Import Only) N/A	
13. Actual Name of and Physical Address of Plant Valley Meat Co LLC 3845 Cedarvale Rd Roswell, nm 88203	14. Mailing Address if Different from Item 8 (include zip code) N/A	15. Area Code and Telephone Number 575 622 1214	
16. Attach Limits or Establishment Premises to be under Federal Inspection (for egg plants attach blueprint) see attachment A			
17. Name and Establishment Number of other official establishments located in the same facility N/A	18. Doing Business As N/A		
19. Month and Year when establishment will be ready to operate under inspection March 2013		20. Comments N/A	

SECTION II.	TYPE OF OPERATION
MEAT AND POULTRY INSPECTION ACTIVITIES (Check all that apply.)	
21 A. Animals to be slaughtered when inspection is inaugurated (meat and poultry only)	
a. <input type="checkbox"/> Beef <input type="checkbox"/> Sheep <input type="checkbox"/> Goats <input type="checkbox"/> Swine <input checked="" type="checkbox"/> Equine <input type="checkbox"/> Chicken <input type="checkbox"/> Turkeys <input type="checkbox"/> Goose <input type="checkbox"/> Ducks <input type="checkbox"/> Guinea <input type="checkbox"/> Squab <input type="checkbox"/> Rabbits	
b. <input type="checkbox"/> Raw - Ground (Non-Intact Products)	
c. <input checked="" type="checkbox"/> Raw - Not Ground (Intact Products)	
d. <input type="checkbox"/> Thermally Processed Commercially Sterile	
e. <input type="checkbox"/> Not Heat Treated - Shelf Stable	
f. <input type="checkbox"/> Heat Treated - Shelf Stable	
g. <input type="checkbox"/> Fully Cooked - Not Shelf Stable	
h. <input type="checkbox"/> Heat Treated but Not Fully Cooked - Not Shelf Stable	
i. <input type="checkbox"/> Product with Secondary Inhibitors - Not Shelf Stable	

EGG PRODUCTS INSPECTION

21 B. Check the type of product intended for inspection at the establishment (Check all that apply)

- a. Shell Egg Breaking
- b. Thermally Processed (Pasteurized heat treated)
 - Cans/Pails Flexible Pouches Jars Cartons Bag-n-Box Totes Tankers Other
- c. Not Heat Treated - Unpasteurized egg product only
- d. Heat Treated - Shelf Stable (Dried egg product, 50% Sugar Yolk)
- e. Heat Treated But Not Fully Cooked - not shelf stable (liquid and frozen egg products)

IMPORT INSPECTION

21 C. Species (Check all that apply)

- Meat Poultry Egg Products Calfish

22. Check the type of product intended for inspection at the establishment (Check all that apply)

- a. Raw - Non-Intact
 - Ground Other Non-Intact
- b. Raw - Intact
 - Carcasses: Beef Veal Veal Hide On Goats Pork Lamb
 - Mutton Equine Poultry Rabbits
 - Other: Cuts Boneless Manufacturing Meals Other Intact
- c. Thermally Processed Commercially Sterile
 - Cans Flexible Pouches Trays Jars
- d. Not Heat Treated - Shelf Stable
- e. Heat Treated - Shelf Stable
- f. Fully Cooked - Not Shelf Stable
 - Frozen from an APHIS restricted country (9CFR 94.4(b)) Frozen Perishable
- g. Heat Treated But Not Fully Cooked - Not Shelf Stable
- h. Product with Secondary Inhibitors - Not Shelf Stable
- i. Shell Eggs/Egg Products
 - Shell Eggs Liquid Frozen Dried

23 Mode of Transportation - Import Inspection Only (Check all that apply)

- Tankers Rail Cars Trucks Ocean Vessel Airline Other (Specify) _____

SECTION III OWNERSHIP AND MANAGEMENT INFORMATION

24. List all persons responsibly connected with the applicant. Include all owners, partners, officers, directors, holders or owners of 10 per centum or more of voting stock and employees in a managerial or executive capacity in the business. Notify the Division Director or Import Inspection Division Director of any changes in the listing given

Name and Title (Title - Indicate if partner or manager)	Present Home Address (Street and Number, City, State, Zip Code)	HOLDER OF 10% OR MORE VOTING STOCK (If Corp.)	
		YES	NO
Jose Hernandez / partner	[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>
Ricardo De los Santos / Mgr	[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

25. Enter the name of each person listed under item 24 who has been convicted in any Federal or State court of any felony. Enter the name of each person listed under item 24 who has been convicted in any Federal or State court of more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. Include the nature of the crime, the date of conviction and the court in which convicted. If none write "None."

Ricardo De los Santos - Criminal Trespass 1988 Amarillo Municipal Court - Felr
 Ricardo De los Santos - Res Burglery 1978 Dalhart Municipal Court - Felony

26. List each conviction against the applicant (person, firm or corporation) in any Federal or State court of any felony. List each conviction against the applicant (person, firm or corporation) in any Federal or State court of more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. Include the nature of the crime, the date of conviction and the court in which convicted. If none write "None."

NONE

27. Sanitation Standard Operating Procedures have been developed for the establishment in accordance with § 416.12 of the regulations. (Check one)

YES NO

28. Applicant has been provided with a copy of this Privacy Act Notice. (Check one)

YES NO

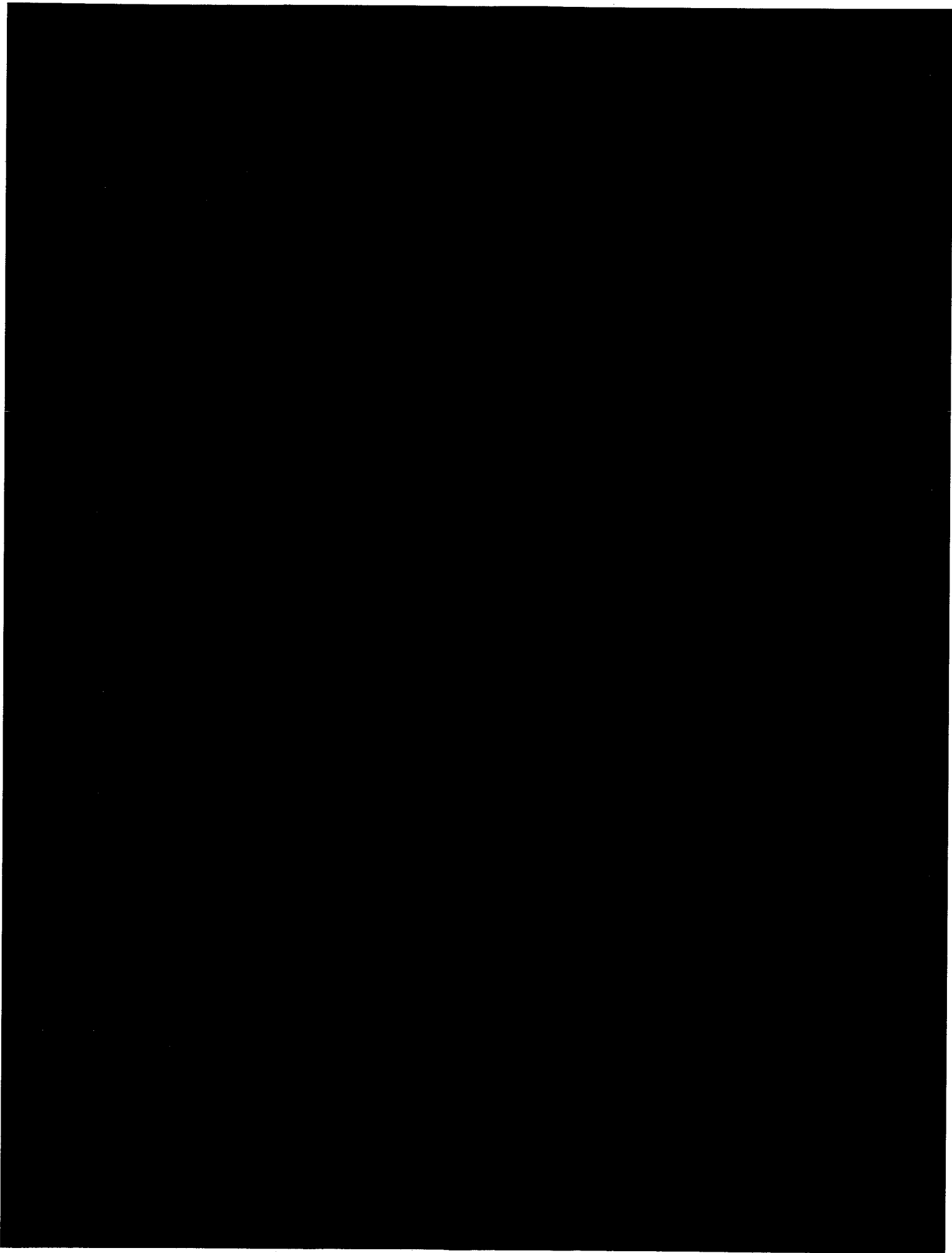
29. Typed Name of Person Signing Application Ricardo De los Santos	30. Signature <i>R. De los Santos</i>	31. Title General Mgr.
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TO BE COMPLETED BY USDA, FSIS

32. Is this establishment presently under state inspection? (OFD only) YES NO

33. Is this establishment to be under Talmadge-Aiken Act? (OFD only) YES NO

34. Official Inspection Number Reserved E-7299	35. Signature of Official Designee <i>Jennifer Beasley-McKean</i>	36. Date DVM 6/28/13
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According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0583-0153. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Est. E-7299

U.S. DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE

Effective: 6/28/13

HOURS OF OPERATION REQUEST/APPROVAL

1. NAME OF APPLICANT <i>Valley Meat Company</i>	2. DATE OF REQUEST <i>4/23/2013</i>	3. DISTRICT / IID-HEADQUARTER OFFICE <i>Dallas / 40</i>
4. MAILING ADDRESS OF APPLICANT <i>3845 Cedarval Road Roswell, NM 88203 9020</i>		<input checked="" type="checkbox"/> New (Attach to application form) <input type="checkbox"/> Update or Revision

HOURS OF OFFICIAL INSPECTION OPERATIONS REQUESTED - SHIFT 1

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time		<i>7:30am</i>	<i>7:30</i>	<i>7:30</i>	<i>7:30</i>	<i>7:30</i>	
Lunch Break Start		<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	<i>12:00</i>	
Lunch Break End		<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	<i>12:30</i>	
End Time		<i>4:00 PM</i>	<i>4:00</i>	<i>4:00</i>	<i>4:00</i>	<i>4:00</i>	

HOURS OF OFFICIAL INSPECTION OPERATIONS REQUESTED - SHIFT 2

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

5. SIGNATURE OF APPLICANT <i>[Signature]</i>	6. PRINTED NAME <i>Ricardo DeLaSantos</i>
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HOURS OF OFFICIAL INSPECTION OPERATIONS GRANTED - SHIFT 1

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

HOURS OF OFFICIAL INSPECTION OPERATIONS GRANTED - SHIFT 2

DAY OF WEEK	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Start Time							
Lunch Break Start							
Lunch Break End							
End Time							

Approved as submitted

7. PRINT NAME OF DISTRICT / IID-HEADQUARTER MANAGER <i>Jennifer Beasley-McKean, DVM</i>	8. SIGNATURE OF DISTRICT / IID-HEADQUARTER MANAGER <i>[Signature]</i>	9. DATE <i>6/28/13</i>
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U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE		1. DATE 06/28/2013	2. ESTABLISHMENT NO. 7299/P-7299
VOLUNTARY SUSPENSION OR VOLUNTARY WITHDRAWAL OF INSPECTION SERVICE		3. DISTRICT CIRCUIT CODE 40-41	
4. NAME AND MAILING ADDRESS OF APPLICANT Valley Meat Company LLC 3845 Cedarvale Rd. Roswell, NM 89203		5. LOCATION OF ESTABLISHMENT (if different from Item 4) Same as No. 4.	
		6. ADDRESS OF DISTRICT OFFICE 1100 Commerce Street, Room 516 Dallas, TX 75242	
7. NATURE OF SUSPENSION (Check One)		8. DATE SERVICE SUSPENDED	9. DATE SERVICE WITHDRAWN 06/28/2013
<input type="checkbox"/> VOLUNTARY <input type="checkbox"/> SEASONAL OR INTERMITTENT		10. DATE SERVICE WILL BE REINSTATED	

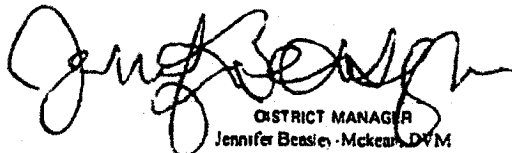
Grant of regular inspection or import inspection service and authority to use labels bearing the Department's inspection mark are hereby suspended or withdrawn for the reason shown below. The suspension or withdrawal is effective at the close of business on the date given above (Item 8 or 9). It will remain in effect until the reinstatement date specified in Item 10 has been reached or a new request is made and granted. Voluntary suspensions are granted for periods not in excess of 120 days; seasonal or intermittent suspensions are granted for not more than one year.

11. REASON FOR ACTION TAKEN:

- SUSPENSION:** As requested in your communication of _____
- WITHDRAWN:** As requested in your communication of _____
- OTHER AS SPECIFIED:** Withdrawn by FSIS upon issuance of Grant for E-7299.

REMARKS

Title 9, the Code of Federal Regulations, Part 305.2, Separation of Official Establishments, states in part, "(b)The slaughter or other preparation of products of horses, mules, or other equines required to be conducted under inspection pursuant to the regulations in this subchapter shall be done in establishments separate from any establishment in which cattle, sheep, swine, or goats are slaughtered or their products are prepared."


 DISTRICT MANAGER
 Jennifer Beasley-Mckean, DVM

WARNING: The Federal Meat Inspection Act and the Poultry Products Inspection Act prohibit the representation of meat, meat food products, poultry, or poultry products as officially inspected unless they have been so inspected. Accordingly, during any period of suspension, you may not use any official marks, labels, or packaging material on hand or otherwise represent the products as having been officially inspected. If service is withdrawn you are held responsible for the destruction or adequate obliteration of any official marks on packaging material remaining on hand.



United States Department of Agriculture

June 27, 2013

TO: Jennifer Beasley-McKean, District Manager
Dallas, Texas

FROM: Daniel Engeljohn, Assistant Administrator
Office of Field Operations

SUBJECT: Approval of Two Documents Specific to Consideration for a Grant of Inspection
for Equine Slaughter by Valley Meat Company LLC

Attached are two decision memos that I have stamped with today's date signifying my approval: National Environmental Policy Act Categorical Exclusion, and Endangered Species Act Section 7 Consultation. Also attached is a copy of an aerial shot of the site map for Valley Meat Company LLC.

Please file them with your documentation related to all the considerations associated with the request for a grant of inspection.

Attachments (3)

Food Safety and Inspection Service
1400 Independence Avenue, SW
Washington, DC 20250
Voice 202-720-3473 Fax 202-720-3858
An Equal Opportunity Provider and Employer

AR0002526

JUN 27 2013

Decision Memo—National Environmental Policy Act Categorical Exclusion

Application of Valley Meat Company, LLC, for a Grant of Federal Meat Inspection Services

Decision

It is my decision to grant federal meat inspection services to Valley Meat Company, LLC.

Description

Valley Meat Company, LLC (Valley Meat) is a small (7,290 square-foot) cattle slaughter and processing facility with a street address of 3845 Cedarvale Rd., Roswell, Chaves County, New Mexico. Valley Meat's zoning permit indicates that its facility is located on a 22-acre site about 12 miles east of Roswell and within an extraterritorial industrial zone that has been set aside in Chaves County for light industrial use. Its nearest neighbors are located approximately one mile to the east and one mile to the west of its facility. Valley Meat has existed as slaughter facility since 1982. Its current owner, Mr. Ricardo de los Santos, has conducted federally inspected commercial slaughter of cattle, veal calves, goats, sheep, lambs, and swine at this facility more or less continuously since January, 1991.¹ On March 2, 2012, Valley Meat filed an application with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), to modify its grant of inspection to receive inspection services for the commercial slaughter of horses, mules, and other equines.

Proposed Action

The proposed action is to grant federal meat inspection services for commercial horse slaughter operations at Valley Meat. The Federal Meat Inspection Act (FMIA) requires government inspectors to conduct an ante-mortem inspection of all amenable species, including cattle, sheep, swine, goats, horses, mules and other equines (21 U.S.C. § 603); a post-mortem inspection of the carcasses and parts of all amenable species (21 U.S.C. § 604); and an inspection of meat food products during processing operations (21 U.S.C. § 605) in establishments that sell or distribute in commerce meat that is intended for human consumption. Horses, mules, and other equines have been among the livestock species that are amenable to the FMIA since it was amended by the Wholesome Meat Act in 1967.^{2 3} The FMIA and its implementing regulations in 9 C.F.R.

¹Valley Meat has operated as a slaughter establishment under several previous grants of federal inspection. It received its first grant in 1982 when it was known as Pecos Valley Meat Company (Pecos) and was under different ownership. Mr. de los Santos took over ownership of Pecos and obtained his first grant of inspection on January 8, 1991. He obtained his second (and still current) grant on September 1, 2010, after adding Mr. Jose Hernandez as a second owner and partner and changing the name of the slaughter plant to Valley Meat. Valley Meat has not operated under its current grant since April 13, 2012.

²FSIS regulations require that establishments that slaughter horses, mules, and other equines must be completely separate from any establishment that slaughters cattle, sheep, swine, or goats.

³FSIS temporarily suspended inspection of horse slaughter facilities from 2006 to 2012 because Congress prohibited FSIS from expending funds to pay for ante-mortem inspection of equines in each of those years, but the underlying statute requiring federal inspection of horse slaughter has never been amended or repealed. In 2012 Congress restored federal funding of ante-mortem inspection of horses at commercial horse slaughter plants. Therefore, issuing a grant of inspection for commercial horse slaughter is not precedent setting, but rather, a return to the status quo ante.

AR0002527

parts 302, 304, 307, 416, and 417 require facilities that wish to engage in the commercial slaughter of amenable species to produce meat intended for human consumption and sale or distribution in interstate commerce to apply to FSIS for a grant of federal inspection services and they establish criteria for determining the eligibility of the applicant to receive inspection services.

FSIS is also required to conduct an examination and inspection of the method by which amenable species, including horses, are slaughtered and handled in connection with slaughter in order to ensure that the establishment is in compliance with the Humane Methods of Slaughter Act (21 U.S.C. § 603) (HMSA). The HMSA was enacted to prevent the needless suffering of livestock, to improve products and economics in slaughter operations, and to produce other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. FSIS has implemented and enforces regulations under the HMSA (9 C.F.R. part 313).⁴

The National Environmental Policy Act and FSIS' Categorical Exclusion

The National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council of Environmental Quality implementing regulations (40 C.F.R. Parts 1501-1508) require all federal agencies to prepare an assessment of the environmental impact of a proposed agency action (called an environmental assessment, or EA) (40 C.F.R. §§ 1501.3 and 1501.4(b)). Based on the EA, NEPA further requires federal agencies to prepare an environmental impact statement (EIS) for major federal actions significantly affecting the quality of the human environment (42 U.S.C. § 4332(2)(c) and 40 C.F.R. § 1504.1(c)). However, federal agencies may identify classes of actions that normally do not require the preparation of either an EA or an EIS because such actions do not have a significant effect on the human environment, either individually or cumulatively (40 C.F.R. § 1507.3(b)(2)). Classes of actions that have no significant environmental effect, either individually or cumulatively, are said to be categorically excluded from NEPA requirements (40 C.F.R. § 1508.4). Despite allowing federal agencies to identify classes of action that are categorically excluded from NEPA requirements, NEPA still requires an agency to determine and inform the agency decision maker on whether or not there are any potential environmental impacts that may result from a proposed action of that agency.

⁴The Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) is an animal welfare statute governing the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States. In 1998, the Secretary issued regulations (9 C.F.R. part 88) that establish safety standards for conveyances being used to transport equines to slaughter; define the duties and responsibilities of owner/shippers prior to loading equines onto the conveyance, during the actual commercial transportation of said equines to the slaughter plant, and upon their arrival at a slaughter plant; and set forth paperwork and back tagging requirements for equines being commercially transported to slaughter. This program is administered by USDA's Animal and Plant Health Inspection Service, whose personnel historically have conducted their inspections of slaughter horses and the conveyances in which they are transported to slaughter upon the horses' arrival at a slaughter facility.

USDA's NEPA implementing regulations are found in 7 C.F.R. § 1b. These regulations list FSIS as an agency that conducts programs and activities that have been found to have no individual or cumulative effect on the human environment, such that FSIS is categorically excluded from the requirements of preparing procedures to implement NEPA and its actions are categorically excluded from the preparation of an EA or an EIS unless the FSIS Administrator determines that an action may have a significant environmental effect (7 C.F.R. § 1b.4).

When a federal agency's action is merely ministerial as opposed to discretionary and the agency lacks discretion to affect the outcome of its action, there is no major federal action that triggers NEPA requirements. A grant of federal inspection under the FMIA is purely ministerial because, if a commercial horse slaughter plant meets all of the statutory and regulatory requirements for receiving a grant of federal inspection services, FSIS has no discretion or authority under the FMIA to deny the grant on other grounds or to consider and choose among alternative ways to achieve the agency's statutory objectives. Therefore, a grant of federal inspection services under the FMIA is not a major federal action that is subject to NEPA requirements.

A grant of federal inspection likewise does not and will not allow FSIS to exercise sufficient control over the commercial horse slaughter activities at Valley Meat such that the grant will constitute a major federal action that triggers NEPA requirements. The sole purpose of federal meat inspection is to protect public health and welfare by ensuring that any meat produced for human consumption and sale or distribution in commerce is wholesome, not adulterated, properly packaged, and properly labeled as to species, quantity, and point of origin, and the FMIA does not authorize FSIS to regulate a commercial horse slaughter facility's slaughter activities beyond that which is necessary to achieve this purpose. Accordingly, the FMIA authorizes FSIS inspectors to conduct ante-mortem inspection of horses to ensure that they are not dead or dying, diseased, or non-ambulatory, and that they are not inhumanely handled or slaughtered. It likewise authorizes FSIS inspectors to conduct post-mortem inspection of the carcasses and meat food products resulting therefrom to ensure that the carcasses and meat are wholesome, unadulterated, and fit for use as human food. In addition, the FMIA authorizes FSIS to require commercial slaughter plants to maintain sanitary conditions with respect to the conduct of commercial slaughter, meat preparation, and meat packaging operations, the proper storage of carcasses and the meat products derived therefrom, and the storage and proper disposal of condemned or inedible materials. The FMIA further authorizes FSIS to require commercial slaughter plants to develop hazard analysis and critical control point plans that identify and prevent or control for potential food safety hazards at each step of the slaughter process. All FSIS inspectors assigned to conduct federal meat inspection at Valley Meat's facility will perform these duties in accordance with the policies and procedures set forth in several FSIS directives and notices, including but not limited to FSIS Directive 6900.2 Rev. 2, *Humane Handling and Slaughter of Livestock*; FSIS Directive 6100.1 *Ante-Mortem Livestock Inspection*; FSIS Directive 6100.2, *Post-mortem Livestock Inspection*; and FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*. However, FSIS inspectors will not have any authority or control over the day-to-day operations of the slaughter plant save to the degree necessary to achieve the agency's mission to protect public health by ensuring that horse meat intended for use as human food is safe to eat and properly labeled.

Even if FSIS did have sufficient authority and control over commercial slaughter activities at a horse slaughter establishment such that a grant of federal inspection to such an establishment could constitute a major federal action, federal ante-mortem and post-mortem inspection of horses at Valley Meat would not be the legally relevant cause of the establishment's commercial horse slaughter activities or the impacts, if any, that such slaughter activities might have on the environment. As noted above, federal inspection under the FMIA is required for any meat that is produced for human consumption and for sale or distribution in interstate commerce, and Valley Meat has operated for about 20 years under a grant of inspection for the commercial slaughter of amenable species other than horses that has not been revoked or otherwise terminated. Valley Meat could resume the slaughter of other amenable species under its existing grant of inspection, so a decision not to grant Valley Meat's current application for federal inspection of commercial horse slaughter would not result in the shuttering of the slaughter plant or relieve its alleged environmental impacts. Furthermore, a modification of the existing grant of inspection so that it applies exclusively to the commercial slaughter of horses would not be a substantial change to the agency's actions pursuant to the grant but would preserve the status quo because FSIS inspectors would continue to follow the policies and procedures set forth in the directives cited above, regardless of the amenable species being slaughtered. It also would not be a substantial change to Valley Meat's commercial slaughter activities but would preserve the status quo because the environmental impacts resulting from the commercial slaughter of horses, if any, would not be significantly different from those resulting from the commercial slaughter of other amenable species. Finally, if the meat produced at a commercial horse slaughter plant is not intended for human consumption, or if it is intended for human consumption but for sale or distribution only in intrastate commerce rather than in interstate commerce, then the commercial horse slaughter and the effects thereof may proceed independently of a grant of federal ante-mortem and post-mortem inspection, and FSIS would have no ability to prevent them. In the present instance, Mr. de los Santos has indicated that he intends to prepare horse meat for human consumption and that his intended market is Mexico, so he may operate only subject to a grant of federal inspection.⁵ However, nothing in the FMIA precludes him from expanding his operation to include the preparation and sale of horse meat to pet food companies and zoos for non-human consumption. It thus is possible for Valley Meat to operate as a horse slaughter establishment, and possibly have an effect on the environment, without a grant of federal inspection. Accordingly, a grant of federal inspection services is not and cannot be the legally relevant cause of either the commercial slaughter activity or its environmental impact, if any.

Based on the foregoing, a decision to grant federal inspection services to Valley Meat does not constitute major federal action that will significantly affect the quality of the human environment and thus does not trigger any requirements under NEPA. Nevertheless, given the high level of public interest in this particular issue, FSIS has examined several aspects of granting federal inspection services to Valley Meat to determine if the categorical exclusion applies to this action

⁵It is not possible for Mr. de los Santos to prepare horse meat for human consumption by consumers located only in the State of New Mexico without a grant of federal meat inspection services because New Mexico has been designated by the Secretary of Agriculture as a state in which the FMIA applies to all transactions involving meat intended for human consumption, even if the meat is sold and distributed only in intrastate commerce. See 9 C.F.R. part 331.

or if any unique conditions or extraordinary circumstances exist that would cause this action to have a significant environmental effect and trigger NEPA requirements. These aspects are the following:

-Impacts on Public Health and Safety. As explained above, federal inspection under the FMIA is intended solely to protect public health and safety by ensuring that meat and meat food products intended for use as human food are not adulterated or misbranded. However, the agency recognizes that the potential impacts of commercial horse slaughter on public health may cause concern with segments of the public. One such concern is the potential public health risks that could arise from the presence in horse meat of trace amounts of certain classes of drugs that have not been approved for use in animals that will or could be slaughtered to produce food for human consumption. The Humane Society of the United States and other horse protection groups contend that horses' status as companion animals that usually are not slaughtered in this country to produce human food means that most horses in the United States have been treated with antibiotics, anti-inflammatory drugs, growth hormones, and other substances that typically are not used on other food animals and for which the Federal Drug Administration has established no tolerances. These groups further contend that residues of these substances remain in horse tissues indefinitely, thus rendering any meat produced from U.S. horses unsafe for human consumption and constituting a threat to public health. FSIS has addressed this risk by implementing a new drug residue testing program that will screen the meat of slaughtered horses for drug residues before the meat is allowed to enter the food supply chain (see FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*). Horse meat that tests positive for drug residues will be marked U.S. condemned and will not be allowed to enter the stream of commerce. Instead, the meat will be disposed of by sending it to a rendering facility, thereby ensuring that it endangers neither public health and safety nor the local environment. Additionally, as described below, an overlapping scheme of federal, state, and local environmental laws and ordinances will further ensure that the waste products generated by Valley Meat's commercial horse slaughter activities are properly disposed of and will not enter the human food supply chain or the local environment. Therefore, a decision to grant federal inspection to Valley Meat will safeguard public health and safety by ensuring that commercial horse slaughter at Valley Meat has no more potential to have a significant impact on public health and safety than did the commercial slaughter of cattle, pigs, sheep, and goats that preceded it.

--Wildlife Hazards. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not create a wildlife hazard.

-Impacts on Wild and Scenic Rivers and U.S. Waters and Wetlands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect a river segment that is listed in the Wild and Scenic River System or National Rivers Inventory. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact federal or state regulated or non-jurisdictional wetlands.

-Impacts on Energy and Natural Resources. FSIS has determined that commercial horse

slaughter activities at Valley Meat and/or federal inspection thereof will not have a significant impact on energy and other natural resource consumption.

--Impacts on Public Parks, Recreation Areas, Wildlife/Waterfowl Refuges, Historical Sites, and Other Publicly Owned Lands. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impacts on any publicly owned land from a public park, recreation area, wildlife or waterfowl refuge, or historical site of national, state, or local significance.

In its June 2011 report on the unintended consequences of the cessation of commercial horse slaughter in the United States, the General Accounting Office (GAO) found that there has been an increase in horse abandonment on private or state park land since 2007. It likewise found an increase in horse abandonment on federal lands, including national parks and Indian reservations. The abandonment of horses on these lands results in over-grazing that degrades the land and puts environmental stress on other species that compete with horses for the same food sources. Horse abandonment on these and other federal lands that maintain populations of wild horses increases the chance that the abandoned horses will introduce equine diseases to the wild herds. The increasing numbers of unwanted horses also complicate the Bureau of Land Management's efforts to manage herds of wild horses and burros on federal lands by making it more difficult for the agency to adopt out the horses and burros that it removes from federal lands. Based on the foregoing, commercial horse slaughter at Valley Meat and other horse slaughter plants has the potential to reduce the horse overpopulation in the United States while providing owners of unwanted horses with an economically viable and an environmentally sustainable alternative to horse abandonment as a method of disposing of their unwanted horses.

FSIS has also made the following findings required by other laws:

--Clean Air Act. Section 176(c)(1) of the Clean Air Act (42 U.S.C. § 7401) requires federal agencies to assure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards that the Environmental Protection Agency (EPA) has set for certain criteria pollutants, such as sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, lead, and particulate matter. See 40 C.F.R. part 50. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not increase the frequency or severity of any existing violations of standards for ambient air quality, result in any new violations of said standards, or prevent or delay the timely attainment of said standards in the area of concern.

--Clean Water Act. Following section 401(a) of the Clean Water Act (33 U.S.C. § 1341) (CWA), 9 C.F.R. § 304.2(c)(1) requires any applicant for federal meat inspection at an establishment where the operations thereof may result in any discharge into navigable waters as defined by the CWA to provide the Administrator, FSIS, with certification, obtained from the State in which the discharge will originate, that there is reasonable assurance that said operations will be conducted in a manner that will not violate the applicable water quality standards. On June 14, 2103, Mr. de los Santos provided the Administrator, FSIS, with an attestation that horse slaughter operations at Valley Meat will not result in any discharge into any navigable waters as

defined by the CWA. Mr. de los Santos also provided the Administrator, FSIS, with a copy of a National Pollution Discharge Elimination System (NPDES) Form 3510-11, No Exposure Certification for Exclusion from NPDES Storm Water Permitting, dated May 10, 2013, which he also submitted to EPA pursuant to section 402 of the Clean Water Act (33 U.S.C. § 1342) and its accompanying regulations (*see* 40 C.F.R. § 122.26(g)). This form notifies that EPA that Valley Meat does not require permit authorization for its storm water discharges associated with industrial activity.

--Endangered Species Act. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact, either directly or indirectly, on any federally or state-listed or proposed endangered species of flora and fauna or impact critical habitat. According to the U.S. Fish and Wildlife Service (FWS), there are no known threatened or endangered species or designated critical habitat in the immediate vicinity of Valley Meat's slaughter facility. FSIS also has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not have any impact affect other biotic communities or habitat not protected by the Endangered Species Act.

It should be noted that any grant of federal inspection for commercial horse slaughter at Valley Meat will not be the issuance of a new grant, but instead will be a modification of an existing grant of inspection for the commercial slaughter of other amenable species under the FMIA (*e.g.*, cattle, sheep, goats, and pigs) at the same facility. Consistent with the response of FWS, the commercial slaughter of other amenable species occurred more or less continuously at Valley Meat's facility for more than 20 years with no discernible effects on listed endangered species or their designated critical habitat. Furthermore, there will no significant difference between the methods that Valley Meat will use to conduct commercial horse slaughter at its facility and the methods that it previously used to conduct the slaughter of other amenable species. Therefore, there is no reason to believe that the conversion of Valley Meat's facility to a dedicated commercial horse slaughter plant will have any more impact on endangered species and their critical habitat than did the prior commercial slaughter of other amenable species.

--Migratory Bird Treaty Act. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not affect species protected under the Migratory Bird Treaty Act.

--National Historic Preservation Act. The National Register of Historic Places lists 19 sites located inside the Roswell, New Mexico, multiple resource area (MRA). Of these, only two, the Patrick Floyd Garret House and the South Spring Ranch, are located within the extraterritorial industrial zone, but both are located slightly more than three (3) miles from Valley Meat's facility. Therefore, FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not impact any historic or cultural property or resources protected by the National Historic Preservation Act.

In 2009, a coalition of northwest Indian tribes reported to the General Accounting Office that the increase in horse abandonments on tribal lands, combined with the sizable populations of wild horses that already existed on their lands, both increased the degradation of the land caused by

over-grazing and complicated efforts to restore native and religiously-significant plant species on tribal lands. Commercial horse slaughter at Valley Meat and other commercial horse slaughter plants thus has the potential to have a beneficial effect on the cultural resources of American Indian tribes whose tribal lands are being degraded by a combination of an overpopulation of wild horses and large scale abandonment of unwanted horses on their lands.

--Federal Farmland Protection Policy Act. FSIS has determined that commercial horse slaughter activities at Valley Meat and/or federal inspection thereof will not involve the acquisition or use of farmland protected by the Federal Farmland Protection Policy Act that would be converted to non-agricultural use.

--Humane Methods of Slaughter Act. As previously noted, Valley Meat's commercial horse slaughter operations will be subject to the humane handling requirements found in section 603(b) of the FMIA (21 U.S.C. § 603(b)) and the regulations promulgated thereunder (9 C.F.R. part 313). On February 24, 2012, FSIS suspended Valley Meat's grant of federal inspection for inhumane handling of cattle, but the suspension was put into abeyance with a letter dated February, 29, 2012. The firm ceased all slaughter operations in March 2012 and has not resumed slaughter under federal inspection. FSIS subsequently terminated its administrative enforcement action against Valley Meat with a Letter of Warning dated September 28, 2012.

--State and Local Laws. As previously noted, Valley Meat's facility is located inside an extraterritorial industrial zone in Chaves County. The county requires slaughter facilities to be built in an industrial area away from residential areas in order to prevent nuisances such as noise and odors (Chaves County, NM, Extraterritorial Zoning Ordinance art. 14 (2005)). FSIS has no information to believe that the location of this industrial area or the facilities operating therein has ever been questioned or challenged on the ground that it impinges on any natural resources, ecologically critical areas, or historical, archaeological, or cultural sites located in and around this area.

The property where Valley Meat's facility is located was re-zoned in 1982 from agricultural land to an industrial area for food processing and wholesale distribution. Valley Meat's facility initially was approved by the Zoning Commission as a packing facility for cattle, sheep, and hogs. Before allowing the property to be re-zoned, the Zoning Commission considered the impact of the slaughter facility upon the public health, safety and welfare of the community; the existing and anticipated traffic flows; parking conditions, setbacks, and height; landscaping and screening; open spaces; signage; lighting; and other items. The transition of Valley Meat's operations from the slaughter of cattle to the slaughter of horses will not change the impacts that already have been considered by the zoning commission.

Valley Meat's waste disposal is governed by New Mexico's Solid Waste Act (N.M. Stat. Ann. 74-9-1 *et seq.*) (SWA) and its accompanying regulations (N.M. Code R. 20.9.2 through 20.9.10). It is a violation of the SWA to store, process, or dispose of solid waste in an unapproved manner and to dispose of any solid waste in a place other than a solid waste facility that meets the requirements of the SWA and its accompanying regulations (N.M. Stat. Ann. 74-9-38; N.N. Code R. 20.9.2.10A(1), (3)), and disposing of solid waste in a manner that harms the

environment or endangers public health or safety can result in a fine of up to \$5000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-9-38 and 74-8-31(3) and (5)). On January 22, 2010, FSIS asked the New Mexico Environmental Department's (NMED's) Solid Waste Bureau to investigate a large compost pile of cattle offal and other inedible parts that the plant was maintaining just off the slaughter plant's official premises. On August 2, 2012, NMED initiated an administrative action against Valley Meat seeking an Administrative Compliance Order directing it to clean up the compost pile. On November 16, 2012, NMED and Valley Meat settled the administrative action with a Final Stipulated Order that required Valley Meat to develop a plan for removing the compost pile and taking it to a landfill or other approved site within 45 days and imposed a civil penalty. Valley Meat paid its civil penalty in full on January 8, 2013, and NMED terminated the enforcement action. Valley Meat currently does not have a composting permit from NMED, as required by N.M. Code R. 20.9.3.27, and thus is not authorized under the SWA to compost any waste materials generated by its slaughter and processing activities. It has contracted with an inedible rendering company to pick up and dispose of inedible and condemned materials produced by commercial horse slaughter activities. Additionally, if FSIS issues Valley Meat a grant of federal inspection for commercial horse slaughter, FSIS will post a notice on the inspection office bulletin board alerting agency inspectors that composting solid waste at Valley Meat is prohibited and that the inspectors should notify NMED immediately if they observe composting on Valley Meat's premises.

Valley Meat's disposal of wastewater and effluent, including blood, is governed by New Mexico's Water Quality Act (N.M. Stat. Ann. 74-6-1 *et seq.*) (WQA) and its Water Quality Control Commission (WQCC) regulations (N.M. Code R. 20.6.2). Failure to comply with the WQA and its regulations may result in a fine of up to \$15,000 per day for each day in which the violation occurs (N.M. Stat. Ann. 74-6-10). The WQCC regulations require establishments that propose to construct or modify any sewerage system to file plans and specifications of the construction or modification with the Ground Water Quality Bureau for discharges that may affect ground water, and to file the same with the Surface Water Quality Bureau for discharges that may affect surface water (N.M. Code R. 20.6.2.1202). The regulations also require establishments that discharge wastewater or effluent into ground water to apply for a discharge permit, DP-236 (N.M. Code R. 20.6.2.3104). If the holder of a discharge permit wishes to modify its permit, it must apply for said modification at least 120 days before the permit expires (N.M. Code R. 20.6.2.3106). In November, 1982, Valley Meat was issued a DP-236 for the discharge of up to 8,000 gallons of agricultural wastewater per day to a treatment and disposal system, and this permit was renewed or modified several times before expiring on May 19, 2009. On June 3, 2010, Mr. de los Santos applied for a renewal of his DP-236, and on May 31, 2013, the Ground Water Quality Bureau published a draft DP-236 for Valley Meat on NMED's website. The website stated that NMED would allow thirty (30) days from the date of publication of the draft discharge permit for interested parties to submit comments on the permit. It further stated that NMED will conduct a hearing on the renewal request if NMED determines that there is sufficient public interest in convening a hearing. Because the DP-236 is required by state rather than federal law, neither the notice and comment period nor a public hearing, if any, precludes FSIS from granting federal inspection services to Valley Meat if the agency determines that Valley Meat has met all other applicable federal requirements.

If NMED renews Valley Meat's DP-236, most of the water used by Valley Meat will become wastewater that ultimately will be discharged into the establishment's treatment and disposal system. Some of the blood produced by its slaughter operations likewise will drain into the establishment's treatment and disposal system.⁶ Valley Meat uses a septic tank and lagoons to treat and dispose of its wastewater and effluent. The soil conditions found in and around Chavez County are conducive to the use of septic systems because the soil is moderately permeable, which allows for effluent absorption without over-saturation. The soil also has thick, impermeable layers of clay that protect the area's shallow aquifers. Therefore, the wastewater used in and blood generated by Valley Meat's commercial horse slaughter operations should not impact the local ground and surface water.

Conclusion.

Based on the foregoing, FSIS finds no unique conditions or extraordinary circumstances of the proposed action to grant federal meat inspection services to Valley Meat that would cause this action to have a significant environmental effect. Therefore, in accordance with 7 C.F.R. § 1b.4, the proposed action is categorically excluded from the preparation of an EA or an EIS.

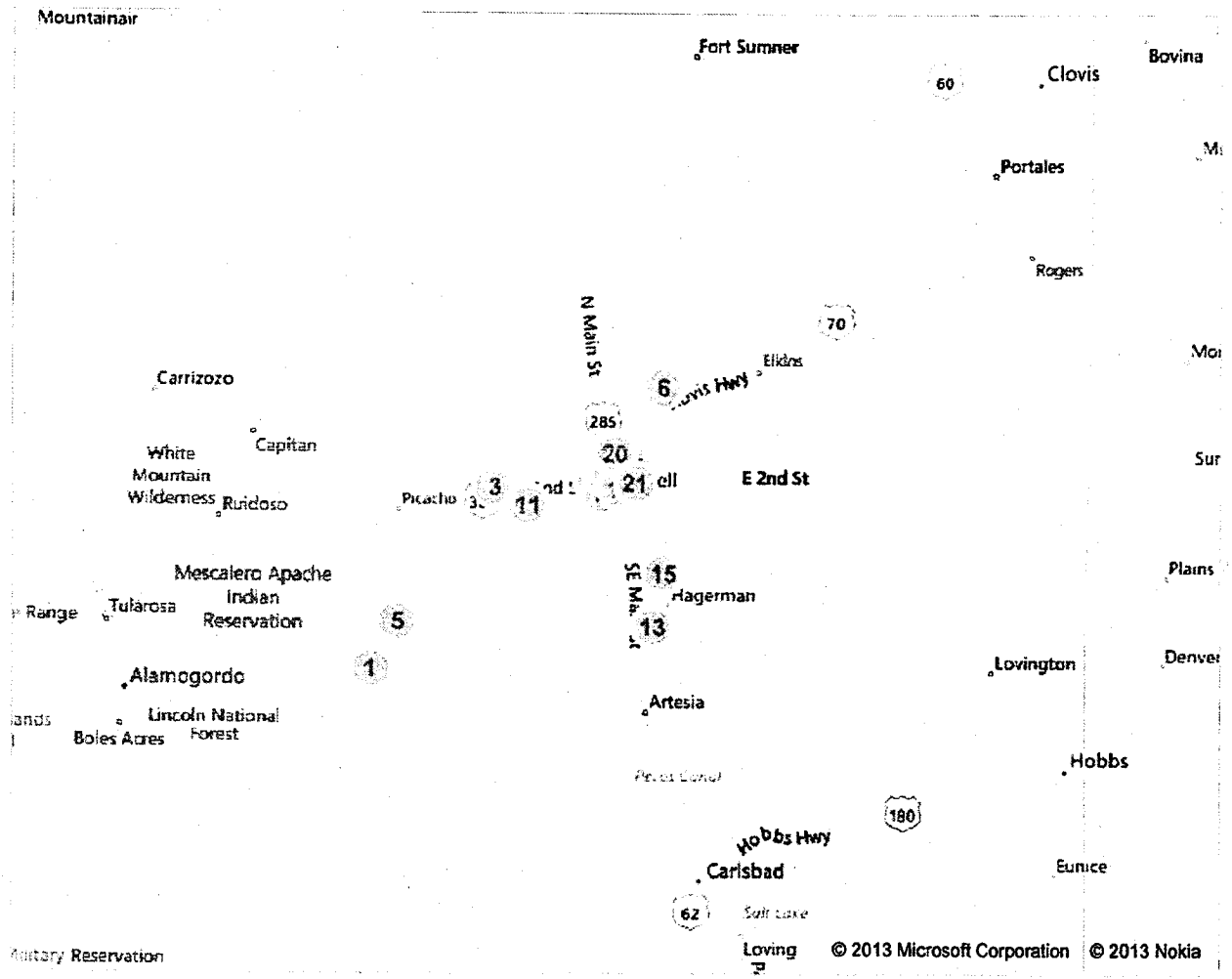
⁶Some opponents of commercial horse slaughter have claimed that horses have, pound-for-pound, twice as much blood volume as cows, and that the blood produced by commercial horse slaughter will overwhelm any waste water disposal system. According to FSIS veterinarians, the blood volume of the average horse ranges from 6.14% to 8.63% of live animal weight, as opposed to 6.75% of live animal weight for the average cow, and thus is not appreciably different from that of cows. Furthermore, the volume of horse blood that commercial horse slaughter at Valley Meat is likely to produce will be a function of the sizes and breeds of the horses that are slaughtered there and the volume of horse slaughter and thus is highly speculative. As noted above, Valley Meat is located 12 miles from the nearest municipality and relies on septic tanks and lagoons for waste water disposal, rather than Roswell's waste water disposal system. Given the speculative nature of the horse slaughter opponents' claims about horse blood volumes, Valley Meat's distance from Roswell, and the nature of Valley Meat's waste water and disposal system, there is no reason to believe that Valley Meat's waste water and disposal system is inadequate to handle the volume of horse blood that is likely to be produced by commercial horse slaughter operations at its facility.



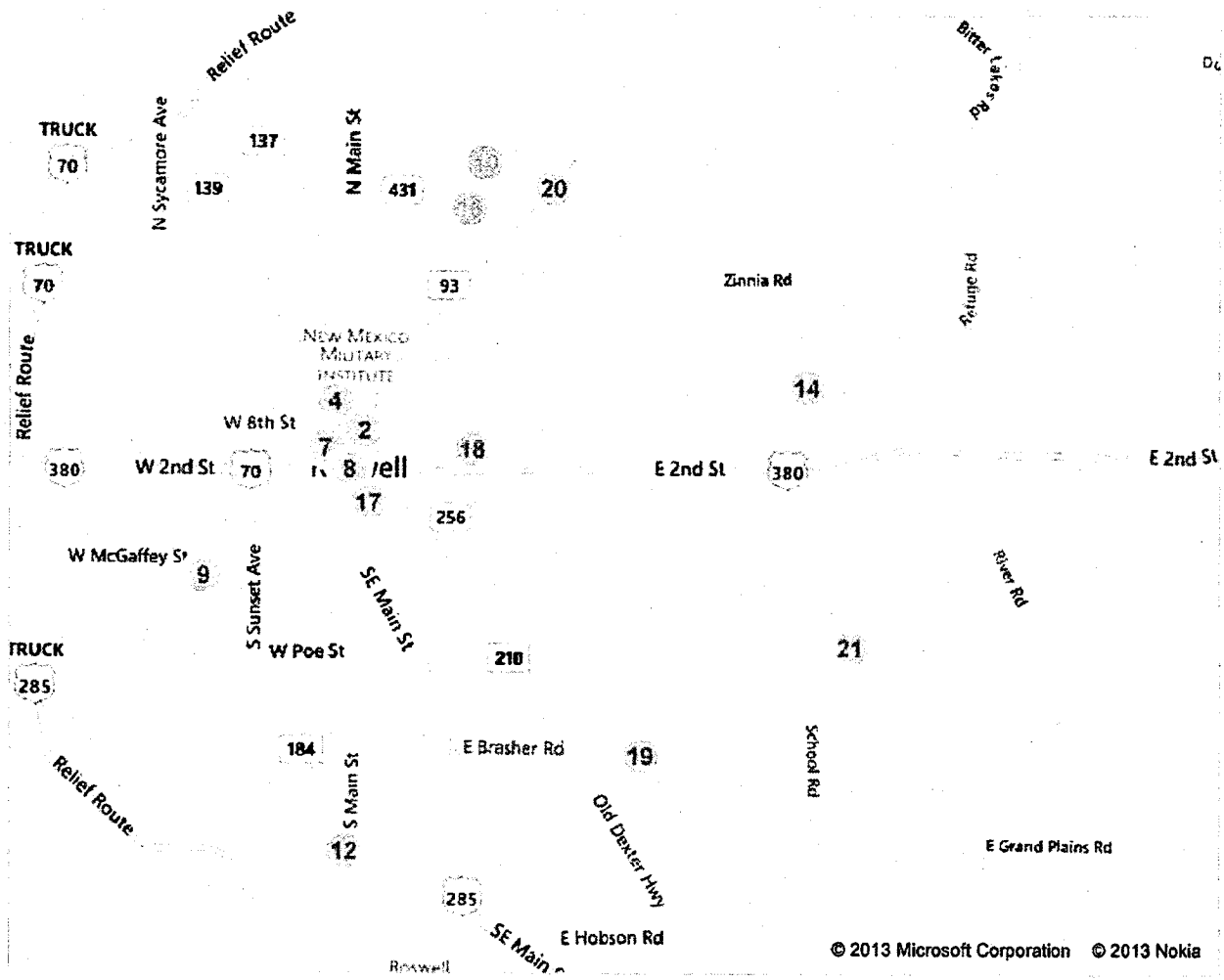
Valley Meat

1. **CA Bar Ranch 32.89407, -105.2244**
2. **Courthouse 33.39713, -104.52167**
3. **Diamond A Ranch 33.35178, -104.85273**
4. **Historic District 33.40151, -104.52709**
5. **Flying H Ranch 33.01165, -105.1398**
6. **Frazier, New Mexico 33.59787, -104.33247**
7. **James Phelps White House 33.39433, -104.52895**
8. **Louise Massey House 33.39097, -104.52463**
9. **Millhiser--Baker Farm 33.37397, -104.55146**
10. **Milne--Bush Ranch 33.43871, -104.49906**
11. **Missouri Plaza 33.30704, -104.7497**
12. **New Mexico Military Institute Historic District 33.33136, -104.52554**
13. **Ozark Trails Marker at Lake Arthur 33.00011, -104.36626**
14. **Patrick Floyd Garrett House 33.40399, -104.43839**
15. **Rio Felix Bridge 33.13109, -104.33615**
16. **Robert H. Goddard House 33.43169, -104.50233**
17. **Saunders-Crosby House 33.38571, -104.52089**
18. **Slaughter Hill Ranch 33.3942, -104.50152**
19. **South Spring Ranch 33.34637, -104.46991**
20. **Urton Orchards 33.43469, -104.48639**
21. **Valley Meat 3845 Cedarvale Rd, Roswell, NM 88203**

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NEW MEXICO

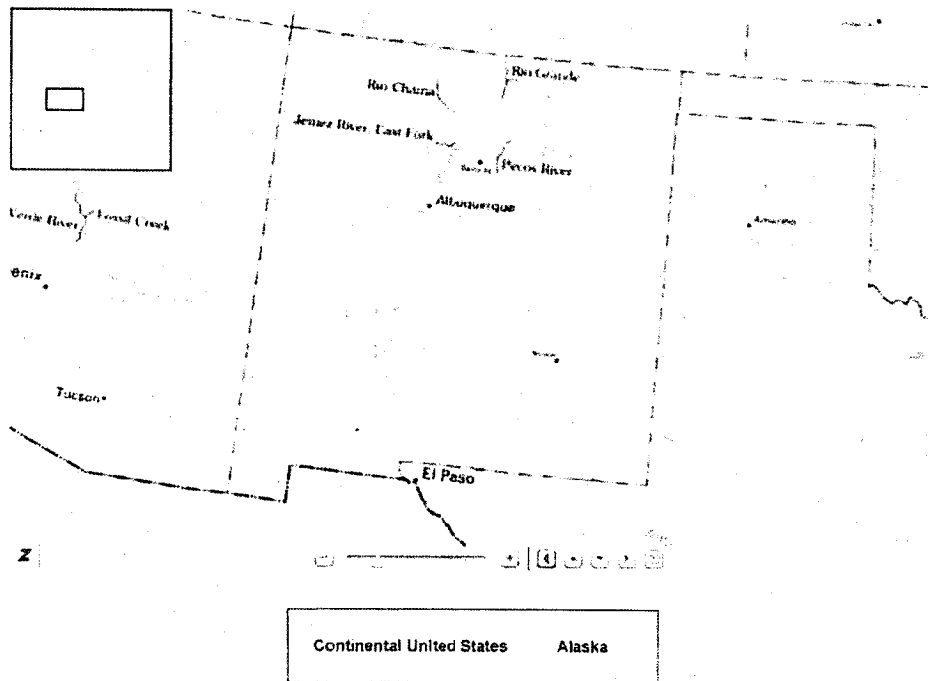
New Mexico has approximately 108,014 miles of river, of which 124.3 miles are designated as wild & scenic—approximately 1/10th of 1% of the state's river miles.

- **Jemez River (East Fork)**
- **Pecos River**
- **Rio Chama**
- **Rio Grande**



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JUN 27 2013

Decision Memo—Endangered Species Act Section 7 Consultation

Application of Valley Meat Company, LLC, for a Grant of Federal Meat Inspection Services

Decision

It is my decision that issuing a grant federal meat inspection services to Valley Meat Company, LLC, will not affect any species listed under the Endangered Species Act (16 U.S.C. § 1531 *et seq.*) or any critical habitat.

Description

Valley Meat Company, LLC (Valley Meat) is a small (7,290 square-foot) cattle slaughter and processing facility with a street address of 3845 Cedarvale Rd., Roswell, Chaves County, New Mexico. Valley Meat's zoning permit indicates that its facility is located on a 22-acre site about 12 miles east of Roswell and within an extraterritorial industrial zone that has been set aside in Chaves County for light industrial use. Its nearest neighbors are located approximately one mile to the east and one mile to the west of its facility. Valley Meat has existed as slaughter facility since 1982.¹ Its current owner, Mr. Ricardo de los Santos, has conducted federally inspected commercial slaughter of cattle, veal calves, goats, sheep, lambs, and swine at this facility more or less continuously since January 1991. On March 2, 2012, Valley Meat filed an application with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), to modify its grant of inspection to receive inspection services for the commercial slaughter of horses, mules, and other equines.

Proposed Action Area and Proposed Action

The proposed action area is the Valley Meat facility as described above and the proposed action is to grant federal meat inspection services for commercial horse slaughter operations at Valley Meat. The Federal Meat Inspection Act (FMIA) requires Government inspectors to conduct an ante-mortem inspection of all amenable species, including cattle, sheep, swine, goats, horses, mules and other equines (21 U.S.C. 603); a post-mortem inspection of the carcasses and parts of all amenable species (21 U.S.C. 604); and an inspection of meat food products during processing operations (21 U.S.C. 605) in establishments that sell or distribute in commerce meat that is intended for human consumption. Horses, mules, and other equines have been among the livestock species that are amenable to the FMIA since the Act was amended by the Wholesome Meat Act in 1967.^{2 3} The FMIA and its implementing regulations in 9 CFR Parts 302, 304, 307,

¹ Error! Main Document Only. Valley Meat has operated as a slaughter establishment under several previous grants of federal inspection. It received its first grant in 1982 when it was known as Pecos Valley Meat Company (Pecos) and was under different ownership. Mr. de los Santos took over ownership of Pecos and obtained his first grant of inspection on January 8, 1991. He obtained his second (and still current) grant on September 1, 2010, after adding Mr. Jose Hernandez as a second owner and partner and changing the name of the slaughter plant to Valley Meat. Valley Meat has not operated under its current grant since April 13, 2012.

² FSIS regulations require that establishments that slaughter horses, mules, and other equines must be completely separate from any establishment that slaughters cattle, sheep, swine, or goats.

416, and 417 require establishments that wish to engage in the commercial slaughter of amenable species to produce meat intended for human consumption and sale or distribution in interstate commerce to apply to FSIS for a grant of federal inspection services, and they establish criteria for determining the eligibility of the applicant to receive inspection services.

FSIS is also required to conduct an examination and inspection of the method by which amenable species, including horses, are slaughtered and handled in connection with slaughter in order to ensure that the establishment is in compliance with the Humane Methods of Slaughter Act (21 U.S.C. 603) (HMSA). The HMSA was enacted to prevent the needless suffering of livestock, to improve products and economies in slaughter operations, and to produce other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. FSIS has implemented and enforces regulations under the HMSA (9 CFR Part 313).⁴

Section 7 Consultation under the Endangered Species Act

The Endangered Species Act (ESA) was enacted in 1973 "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species" (16 U.S.C. 1531(b)). To that end, section 7(a)(2) of the ESA (16 U.S.C. 1536(a)(2)) requires all federal agencies, in consultation with either the U.S. Fish & Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), to ensure that their actions are "not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of" any designated critical habitat. Section 7(a)(2) defines an "agency action" as "any action authorized, funded, or carried out" by a federal agency. The ESA's implementing regulations in 50 CFR Part 402 further provide that "[s]ection 7 and the requirements of this part apply to all actions in which there is *discretionary* federal involvement or control" (50 CFR 402.03 (italics added)).

Section 7 and its implementing regulations establish a process for determining the biological impacts of a proposed agency activity. An agency proposing an action must first determine

³FSIS temporarily suspended inspection of horse slaughter facilities from 2006 to 2012 because Congress prohibited FSIS from expending funds to pay for ante-mortem inspection of equines in each of those years, but the underlying statute requiring federal inspection of horse slaughter has never been amended or repealed. In 2012 Congress restored federal funding of ante-mortem inspection of horses at commercial horse slaughter plants. Therefore, issuing a grant of inspection for commercial horse slaughter is not precedent setting, but rather, a return to the status quo ante.

⁴The Commercial Transportation of Equine for Slaughter Act (7 U.S.C. 1901 note) is an animal welfare statute governing the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States. In 1998, the Secretary issued regulations (9 CFR Part 88) that establish safety standards for conveyances being used to transport equines to slaughter; define the duties and responsibilities of owner/shippers prior to loading equines onto the conveyance, during the actual commercial transportation of said equines to the slaughter plant, and upon their arrival at a slaughter plant; and set forth paperwork and back tagging requirements for equines being commercially transported to slaughter. This program is administered by USDA's Animal and Plant Health Inspection Service, whose personnel historically have conducted their inspections of slaughter horses and the conveyances in which they are transported to slaughter upon the horses' arrival at a slaughter facility.

whether the action "may affect" species that are listed as endangered or threatened under the ESA (50 CFR 402.14). If it is determined that the proposed action "may affect" a listed endangered or threatened species or designated critical habitat, the agency must pursue some form of consultation, either "formal" or "informal". "Informal" consultation is "an optional process that includes all discussions, correspondence, etc., between [FWS or NMFS] and the federal agency . . . designed to assist the [agency] in determining whether formal consultation is required" (50 CFR 402.13(a)). "If during informal consultation it is determined by the [agency], with the written concurrence of [FWS or NMFS], that the action is not likely to adversely affect listed species or critical habitat, the consultation process is terminated, and no further action is necessary" (Id.).

A decision to grant federal meat inspection services to a commercial horse slaughter plant is not an agency action that triggers a Section 7 consultation under the ESA. If a commercial horse slaughter plant meets all of the statutory and regulatory requirements for receiving a grant of federal inspection services, FSIS must issue the grant, and it does not have discretion to refuse the grant on other grounds. FSIS has no authority under the FMIA to consider the impact of a grant of federal inspection on species listed in the ESA or their designated habitat when determining whether an applicant is qualified to receive a grant, and it does not have the discretion to deny a grant of inspection services to a commercial horse slaughter plant because of the possibility that the slaughter activities performed there will jeopardize listed species or adversely affect their designated critical habitat. Therefore, a decision to grant federal meat inspection services to Valley Meat is not discretionary if the Administrator determines that Valley Meat meets all of the statutory and regulatory requirements for a grant of inspection, and said decision does not and will not trigger the Section 7 consultation requirement of the ESA.

A grant of federal inspection for commercial horse slaughter activities at Valley Meat likewise does not and will not allow FSIS to exercise sufficient control over those activities to implement measures that will inure to the benefit of endangered or threatened species or their habitat. Pursuant to Sections 3 and 4 of the FMIA (21 U.S.C. 603 and 604), FSIS conducts federal ante-mortem inspection of horses to be slaughtered at the plant and federal post-mortem inspection of the horse carcasses and meat that are produced by said slaughter. The sole purpose of the federal meat inspection services under sections 3 and 4 of the FMIA is to protect public health and welfare by ensuring that any meat produced for human consumption and sale and transportation in commerce is wholesome, not adulterated, and otherwise fit for human consumption, as well as properly packaged and properly labeled as to species, quantity, and point of origin. Accordingly, the FMIA authorizes FSIS inspectors to conduct ante-mortem inspection of horses to ensure that they are not dead or dying, diseased, or non-ambulatory, and that they are not inhumanely slaughtered. It likewise authorizes FSIS inspectors to conduct post-mortem inspection of the carcasses and meat food products resulting therefrom to ensure that the carcasses and meat are wholesome, not adulterated, and fit for use as human food.

In addition, the FMIA authorizes FSIS to require commercial slaughter plants to achieve and maintain certain sanitary conditions with respect to the conduct of commercial slaughter, meat preparation, and meat packaging operations, the proper storage of carcasses and the meat products derived therefrom, and the storage and proper disposal of condemned or inedible materials. The FMIA further authorizes FSIS to require commercial slaughter plants to develop Hazard Analysis

and Critical Control Point plans that identify and prevent or control for potential food safety hazards at each step of the slaughter process. All FSIS inspectors assigned to conduct federal meat inspection at Valley Meat's facility will perform these duties in accordance with policies and procedures set forth in FSIS Directive 6900.2 Rev. 2, *Humane Handling and Slaughter of Livestock*; FSIS Directive 6100.1, *Ante-Mortem Livestock Inspection*; FSIS Directive 6100.2, *Post-mortem Livestock Inspection*; and FSIS Directive 6130.1, *Ante-mortem, Post-mortem Inspection of Equines and Documentation of Inspection Tasks*. However, FSIS inspectors will not have any authority or control over the day-to-day operations of the slaughter plant save to the degree necessary to achieve only the Agency's mission to protect public health by ensuring that horse meat intended for use as human food and sale or distribution in commerce is safe to eat and properly labeled. Therefore, a decision to grant federal meat inspection services to Valley Meat does not and will not render the commercial horse slaughter activities themselves an agency action that triggers the Section 7 consultation requirement of the ESA.

Even if FSIS did have sufficient statutory authority and control over commercial horse slaughter activities to trigger the duty to consult under Section 7 of the ESA, a modification of the existing grant of inspection so that it applies exclusively to the commercial slaughter of horses would not be a substantial change to the agency's actions pursuant to the grant but would preserve the status quo because FSIS inspectors would continue to follow the policies and procedures set forth in the directives cited above, regardless of the amenable species being slaughtered. Therefore, a decision to grant Valley Meat federal inspection for commercial horse slaughter will have no impact on threatened or endangered species or their designated habitat.

Finally, if the meat produced at a commercial horse slaughter plant is not intended for human consumption, or if it is intended for human consumption but for sale or distribution only in intrastate commerce rather than in interstate commerce, then the commercial horse slaughter and the effects thereof may proceed independently of a grant of federal ante-mortem and post-mortem inspection, and FSIS will have no ability to prevent them. In the present instance, Mr. de los Santos has indicated that he intends to prepare horse meat for human consumption and that his intended market is Mexico, so he may operate only subject to a grant of federal inspection.⁵ However, nothing in the FMIA precludes him from expanding his operation to include the preparation and sale of horse meat to pet food companies and zoos for non-human consumption. It thus is possible for Valley Meat to operate as a horse slaughter establishment without a grant of federal inspection. Accordingly, a grant of federal inspection services is not and cannot be the legally relevant cause of either the commercial slaughter activity or its impact, if any, on threatened or endangered species and their critical habitat.

Based on the foregoing, a decision to grant federal meat inspection services to Valley Meat does not and will not constitute a discretionary agency action that triggers any consultation requirements under Section 7 of the ESA. Nevertheless, given the fact that opponents of

⁵ It is not possible for Mr. de los Santos to prepare horse meat for human consumption by consumers located only in the State of New Mexico without a grant of federal meat inspection services because New Mexico has been designated by the Secretary of Agriculture as a state in which the FMIA applies to all transactions involving meat intended for human consumption, even if the meat is sold and distributed only in intrastate commerce. See 9 C.F.R. Part 331.

commercial horse slaughter have indicated their intention to challenge any grant of federal inspection for commercial horse slaughter at Valley Meat on ESA grounds, FSIS has engaged in informal consultation with FWS concerning the potential effects of commercial horse slaughter on endangered or threatened species and their critical habitat.⁶

On May 6, 2013, FSIS consulted the Aquatics Branch of FWS's Ecological Services Field Office in New Mexico to discuss whether commercial horse slaughter activities at Valley Meat or federal inspection thereof will have any impact, either directly or indirectly, on any federally or state-listed or proposed endangered species of flora and fauna or impact a critical habitat. Specifically, they discussed the species and critical habitats listed on FWS's Web site at http://www.fws.gov/southwest/es/newmexico/sbc_view_all_bc.cfm.

FSIS provided FWS with a map of Mr. de los Santos' property⁷ that indicated that his facility is located at 33° 21' N/ 104° 25' W. FSIS then described to FWS the activities that the Agency will conduct at this facility. Specifically, FSIS will provide inspection program personnel to the facility to examine horses before and after slaughter. FSIS will verify requirements for marking and labeling products and for certain slaughter and processing activities, such as plant sanitation. Furthermore, FSIS will collect samples and test for microbiological, chemical, and other types of contamination.

FSIS also described to FWS how Mr. de los Santos will slaughter horses at his facility. Horses will be sent to the facility in trucks. Mr. de los Santos will store the horses in holding pens until the horses can be brought into the facility for slaughter. Mr. de los Santos will not use any chemicals or sprays on the live horses. After slaughter, Mr. de los Santos will spray carcasses with [REDACTED] to limit microbial growth.

Valley Meat will use bleach and [REDACTED] (quaternary ammonium) from [REDACTED] to clean and sanitize the facility. The establishment will also use some insecticide to control flies around the facility.

The facility will use a septic system and lagoons to manage its liquid waste. The septic system will receive the raw sewage and other effluent from the establishment. In the septic tank, solids will be separated out of the raw sewage and partially digested by anaerobic bacteria. After primary treatment in the septic tank, liquid effluent will flow to the lagoons through a watertight pipe and discharge near the center of the bottom of the lagoons. There the wastewater will be further processed by aerobic bacteria. Neither the FMIA nor the grant of federal inspection for which Valley Meat is applying authorizes or mandates any of the foregoing. Rather, Valley Meat's management of its liquid waste is governed solely by federal and state clean water laws. Pursuant to the latter, the facility currently is applying for a renewal of its DP-236, a discharge permit from the State of New Mexico, for the discharge of up to 8,000 gallons of agricultural wastewater per day.

⁶ Consultation number 02ENNM00-2013-TA-0048.

⁷ Attachment I.

Solid wastes will be stored at the establishment in an inedible area inside a freezer until the waste can be picked-up by a rendering company for disposal. The waste will be collected approximately three times per week.

FWS advised FSIS that there is no undisturbed native habitat and, therefore, no suitable habitat in or near Valley Meat's facility. FWS also did not believe that the establishment's use of chemicals to limit microbial growth and to clean and sanitize the facility would affect any listed species or their designated critical habitats because the establishment previously used these compounds with no discernible effects on listed species or their habitats.

FWS advised FSIS that that the establishment's liquid and solid waste management system will not affect listed species or their critical habitats. Valley Meat's septic and lagoon system treats the facility's wastewater so that it is safe to use for irrigation on the land near the slaughter facility and will not contaminate the area's groundwater. In addition, sending the solid waste to an off-site rendering facility prevents any spillage that could impinge on a listed species' habitat. Furthermore, the listed species and critical habitats exist upstream from the facility so they would not be affected even if the groundwater was contaminated or solid waste was spilled.

FSIS has determined that there will be 'no effect' on listed species or designated critical habitats because of commercial horse slaughter activities or federal inspection thereof and FWS concurs. Tables 1 and 2 summarize the potential listed species found on FWS's Web site, the effect determination, and the rationale for the determination.

Table 1: Listed and Sensitive Species in Chaves County					
Common Name	Scientific Name	Group	Status	Determination	Rationale
Lesser prairie-chicken	<i>Tympanuchus pallidicinctus</i>	Bird	Candidate	No Effect	No Suitable Habitat
Sprague's pipit	<i>Anthus spragueii</i>	Bird	Candidate	No Effect	No Suitable Habitat
Texas hornshell (mussel)	<i>Popenaias popeii</i>	Mollusc - Invertebrate	Candidate	No Effect	No Suitable Habitat
Wright's marsh thistle	<i>Cirsium wrightii</i>	Plant	Candidate	No Effect	No Suitable Habitat

Noel's amphipod Designated Critical Habitat	<i>Gammarus desperatus</i>	Arthropod - Invertebrate	Endangered	No Effect	No Suitable Habitat, No Critical Habitat in Action Area
Least Tern (Interior Population)	<i>Sterna antillarum</i>	Bird	Endangered	No Effect	No Suitable Habitat
Pecos gambusia	<i>Gambusia nobilis</i>	Fish	Endangered	No Effect	No Suitable Habitat
Black-footed ferret	<i>Mustela nigripes</i>	Mammal	Endangered	No Effect	No Suitable Habitat
Koster's springsnail Designated Critical Habitat	<i>Jurumia kosteri</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Pecos assiminea snail Designated Critical Habitat	<i>Assiminea pecos</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Roswell springsnail Designated Critical Habitat	<i>Pyrgulopsis roswellensis</i>	Mollusc - Invertebrate	Endangered	No Effect	No suitable Habitat and No Critical Habitat in Action Area
Kuenzler's hedgehog cactus	<i>Echinocereus fendleri</i> var. <i>kuenzleri</i> <i>Escobaria</i>	Plant	Endangered	No Effect	No Suitable Habitat

	(= <i>Coryphantha</i>)				
Northern aplomado falcon	<i>Falco femoralis septentrionalis</i>	Bird	Experimental, Non-essential Population	No Effect	No Suitable Habitat
Whooping Crane	<i>Grus americana</i>	Bird	Experimental, Non-essential Population	No Effect	No Suitable Habitat
Pecos bluntnose shiner Designated Critical Habitat	<i>Notropis simus pecosensis</i>	Fish	Threatened	No Effect	No Suitable Habitat and No Critical Habitat in Action Area
Pecos sunflower Designated Critical Habitat	<i>Helianthus paradoxus</i>	Plant	Threatened	No Effect	No Suitable Habitat and No Critical Habitat in Action Area

Table 2: Species of Concern in Chaves County					
Common Name	Scientific Name	Group	Status	Determination	Rationale
American peregrine falcon	<i>Falco peregrinus anatum</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Arctic peregrine falcon	<i>Falco peregrinus tundrius</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Baird's sparrow	<i>Ammodramus bairdii</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Bell's vireo	<i>Vireo bellii</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Black tern	<i>Chlidonias niger</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Northern goshawk	<i>Accipiter gentilis</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Western burrowing owl	<i>Athene cunicularia hypugaea</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Yellow-billed cuckoo	<i>Coccyzus americanus</i>	Bird	Species of Concern	No Effect	No Suitable Habitat in Action Area
Greenthroat darter	<i>Etheostoma lepidum</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Headwater catfish	<i>Ictalurus lupus</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Rio Grande shiner	<i>Notropis jemezianus</i>	Fish	Species of Concern	No Effect	No Suitable Habitat in Action Area
Black-tailed prairie dog	<i>Cynomys ludovicianus</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Desert pocket gopher	<i>Geomys arenarius</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Pecos River	<i>Ondatra</i>	Mammal	Species of	No Effect	No Suitable

muskrat	<i>zibethicus ripensis</i>		Concern		Habitat in Action Area
Swift fox	<i>Vulpes velox</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Western red bat	<i>Lasiurus blossevillei</i>	Mammal	Species of Concern	No Effect	No Suitable Habitat in Action Area
Pecos pupfish	<i>Cyprinodon pecosensis</i>	Fish	Under Review	No Effect	No Suitable Habitat in Action Area

