

Wagner, Scott - FSIS

From: Wagner, Scott - FSIS
Sent: Monday, February 27, 2012 8:27 AM
To: Symons, Sara - FSIS
Subject: FW: 07299 hh egregious

Scott T Wagner, DVM
Deputy District Manager
USDA, FSIS, OFO, Denver
(303) 236-9803
(720) 201-6357 cell
scott.wagner@fsis.usda.gov

From: [REDACTED] - FSIS
Sent: Friday, February 24, 2012 3:47 PM
To: [REDACTED] - FSIS; [REDACTED] - FSIS; Wagner, Scott - FSIS
Cc: Gallegos, Anna - FSIS
Subject: RE: 07299 hh egregious

Attached is an edited MOI per Dr. Wagner's comments to include postmortem findings and correction of the caliber of [REDACTED]

Thanks



2.24.12.HH.egregio
usMOI.07299....

From: [REDACTED] - FSIS
Sent: Friday, February 24, 2012 2:51 PM
To: [REDACTED] - FSIS; [REDACTED] - FSIS; Wagner, Scott - FSIS
Cc: Gallegos, Anna - FSIS
Subject: FW: 07299 hh egregious

Attached is my MOI with verbal suspension.

Please note that withholding and suspension in abeyance was issued 11/4 for the same cause (repeated attempts to knock a beef cow with a firearm (different caliber). And the LOW was issued 1/20/12.

Additionally the earlier non-egregious NR for slips and falls is not linked to the 11/30 NR for cow with her leg in the chute (different category). Please let me know if I need to link those two documents or add the previous LOW/MOI into this 2/24 MOI.

Finally, Mr. Rick De Los Santos reported shortly after lunch he needed to leave due to [REDACTED]. He reported he left his cellular number with FLS [REDACTED] and DVMS [REDACTED]. I am not sure if this was email or voicemail. Rick instructed me to give Eddie De Los Santos the MOI.

Thank you all,

[REDACTED]
<< File: 2.24.12.HH.egregiousMOI.07299.pdf >>

From: [REDACTED] - FSIS
Sent: Friday, February 24, 2012 11:03 AM
To: [REDACTED] - FSIS; Wagner, Scott - FSIS; [REDACTED] - FSIS
Cc: Gallegos, Anna - FSIS
Subject: 07299 hh egregious

Hi all. Just a quick blurb after speaking with DDM Wagner.

At 1045 hours a beef bull was shot five times before being rendered unconscious. The [REDACTED] and back up [REDACTED] did not drop the animal and the third shot using the [REDACTED] to the top of the skull did drop the animal but not insensible, two more shots with the [REDACTED] before unconscious. Mr. Rick and Eddie De Los Santos were notified of the verbal suspension. Mr. Rick De Los Santos requested that perform the kill floor inspection duties before the MOI to ensure product reaches the cooler before end of duty hours. I called FLS [REDACTED] Dr. [REDACTED] and Dr. Wagner. The knocking chute is tagged (four beef animals left on premises) before phone calls.

I will be on the kill floor until lunch break and then will work on the MOI.

Thanks!

[REDACTED] *D.V.M., M.P.H*
SPHV Roswell, NM
575-[REDACTED]



**United States
Department of
Agriculture**

**Food Safety and
Inspection Service**

**Washington, D. C.
20250**

From: [REDACTED]
Date: 2/24/2012
Subject: Memorandum Of Interview YJL4015021524G
Meeting Date: 2/24/2012
Meeting Time: 11:00 AM
Reason Code:
Comments:

Today, February 24, 2012, at approximately 1048 Hours MST, SPHV [REDACTED] verbally notified Mr. Eddie De Los Santos, Slaughter QC, and at approximately 1055 Hours MST, Mr. Rick De Los Santos, owner of Establishment 07299 Valley Meat Company, of the decision to suspend slaughter operations at the facility. SPHV [REDACTED] informed both Mr. De Los Santos' the Denver District Office would be contacted and that an official letter of suspension would be written and issued. The decision to suspend was based on the following:

On 2/24/12, at approximately 1045 Hours MST, while performing routine humane handling stunning effectiveness activities at the side entry chute and knocking area, SPHV [REDACTED] observed the following noncompliance.

Prior to the observation of the knocking of any livestock with the company [REDACTED] on 2/24/12, SPHV [REDACTED] visually verified the company had the [REDACTED] and corresponding rounds.

Mr. Eddie De Los Santos verbally requested to knock a large beef bull in the facility side chute knocking area as the animal was too large to enter through the main chute. Mr. De Los Santos informed SPHV [REDACTED] at approximately 1040 Hours the bull was in place for knocking. SPHV [REDACTED] exited the kill floor to the side knocking area and observed the beef bull in the side chute. The company placed a large, approximately three inch diameter, metal pipe horizontally through the chute, behind the bull, to prevent the animal from moving backward during knocking.

Mr. De Los Santos approached the bull with the [REDACTED] and SPHV [REDACTED] observed him line the gun up for knocking from the front aspect of the bull's head, approximately six inches from animal's forehead, then SPHV [REDACTED] moved down the short steps, outside the building to avoid being in discharge ricochet range. SPHV [REDACTED] heard Mr. De Los Santos fire the [REDACTED] and then immediately verbally request the backup firearm the company was using for security knocks (another employee, [REDACTED] was very near Mr. De Los Santos with the second firearm). SPHV [REDACTED] heard Mr. Eddie De Los Santos fire the second shot and SPHV [REDACTED] moved up the steps to view the bull.

At this time, SPHV [REDACTED] observed the bull to be standing in a slightly wide legged fore-stance and had thick, dense air condensation emitting from both nostrils in a rhythmic manner indicating rhythmic breathing. Mr. De Los Santo asked for the [REDACTED] again, was handed the firearm, aligned a shot on the crown of the animals head and slightly proximal, and then fired. The bull dropped to the floor, and SPHV [REDACTED] could still observe the rhythmic condensed air being emitted from the nostrils. Mr. De Los Santos requested the back up firearm again and delivered two more shots to the front and hind aspects of the bull's skull before rhythmic clouds and a corneal reflex was absent.

After the fifth shot, SPHV [REDACTED] approached the bull, verified corneal reflex was absent, and observed a constant, tapering stream of condensed air being released from the nostrils, indicating rhythmic breathing had ceased. SPHV [REDACTED] also observed the bull for rhythmic moving of the thorax and abdomen, ear or eye movement or vocalization and did not observe any of these signs of sensibility. The bull reflexively relaxed the caudal half of its body about forty-five seconds following the final shot. The entire knocking processing required five shots from two separate firearms and in a total approximate time of two minutes and fifteen seconds from first shot until the first signs of insensibility were observed.

SPHV [REDACTED] immediately verbally notified Mr. Eddie De Los Santos that an egregious noncompliance had occurred. SPHV [REDACTED] stated the knocking activities were suspended and the company could continue processing the animals, included the bull, which had already been knocked. Mr. De Los Santos asked why the knocking activities were suspended and

SPHV [REDACTED] explained that failure to render the bull insensible after one shot is a noncompliance, the backup firearm was not effective, and the animal endure five shots before it was rendered insensible, this ineffective stunning is an egregious noncompliance.

SPHV [REDACTED] immediately asked Mr. [REDACTED] what type of firearm he was holding as the backup, and he reported it was a [REDACTED]. SPHV [REDACTED] observed this to be a [REDACTED].

SPHV [REDACTED] immediately tagged the chain used to secure animals in the knocking chute with USDA Reject Tag#742705 as a regulatory control action and contacted Front Line Supervisor [REDACTED] to report the egregious noncompliance.

Before SPHV [REDACTED] could telephone the Denver District Office to report the noncompliance, Mr. Rick De Los Santos knocked on the USDA Office door and requested to be informed of the humane handling issues. SPHV [REDACTED] first described the earlier non-egregious humane handling noncompliance involving slips and falls (please see the noncompliance record YJL0216021924N) at 0810 Hours. SPHV [REDACTED] then explained the above information to Mr. De Los Santos. Mr. De Los Santos stated that the slaughter inspection activities needed to continue and the company prioritized that inspection over generating the MOI for the documentation of the verbal of suspension. SPHV [REDACTED] replied she still needed to alert the District Office of the recommendation to suspend and would ask if delaying the MOI was acceptable.

SPHV [REDACTED] telephonically contacted Deputy District Manager (DDM) Scott Wagner and reported the noncompliance as above. Dr. Wagner supported the verbal suspension with processing activities to continue on previously knocked animals, and that SPHV [REDACTED] could perform slaughter inspection duties before documenting the MOI. SPHV [REDACTED] verbally reported this conversation to Mr. Rick De Los Santos.

On postmortem exam of the bull's head, SPHV [REDACTED] was able to discern no rounds had completely penetrated the forehead of the bull, but indentations were centrally located. SPHV [REDACTED] was unable to identify any evidence of single round penetration location in the rear of the skull, as there was extensive bone and tissue fragmentation from the multiple shotgun rounds.

Following slaughter inspection, SPHV [REDACTED] asked Mr. Eddie De Los Santos to confirm the type of backup firearm and ammunition. Mr. De Los Santos reported the firearm was a [REDACTED] and the company used [REDACTED].

Plant Management Response: