

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

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FRONT RANGE EQUINE RESCUE, *et al.*, )

Plaintiffs, )

v. )

TOM VILSACK, Secretary of the U.S. Department of Agriculture, *et al.*, )

Federal Defendants, )

VALLEY MEAT COMPANY, LLC, *et al.*, )

Defendant-Intervenors. )

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Civ. No. 1:13-cv-00639-MCA-RHS

**FEDERAL DEFENDANTS' NOTICE REGARDING GRANT OF INSPECTION FOR RAINS NATURAL MEATS IN GALLATIN, MISSOURI**

Federal Defendants hereby give notice that Defendant-Intervenor Rains Natural Meats has met all statutory and regulatory requirements for a grant of inspection for the slaughter of horses for human consumption in interstate commerce pursuant to the Federal Meat Inspection Act ("FMIA"), 21 U.S.C. §§ 601-625, at its facility in Gallatin, Missouri.

As Federal Defendants have previously informed the Court, the FMIA mandates that the U.S. Department of Agriculture ("USDA"), acting through the Food Safety and Inspection Service ("FSIS"), grant inspections of livestock slaughter operations at facilities such as Rains Natural Meats' Missouri facility that meet the requirements of the FMIA. *See* ECF No. 66 at 12-17. And, as a result of the agency's lack of discretion in issuing grants of inspection under the FMIA, the requirements of the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321-4370h, do not apply. *Id.* Nonetheless, as it did for the Valley Meat and Responsible

Transportation operations that are the subject of this Court's temporary restraining order, ECF No. 125 (as amended), FSIS has completed an analysis of the proposed grant of inspection for the Rains Natural Meats facility in accordance with NEPA, determining that the grant falls under the USDA categorical exclusion for FSIS actions. Exhibit A. Because the facility has satisfied the statutory and regulatory requirements for inspection, and FSIS has completed its NEPA process, FSIS is presently in a position to issue the grant of inspection for Rains Natural Meats as required by the FMIA.

When this Court entered its temporary restraining order, Rains Natural Meats had not yet met the requirements for a grant of inspection, and thus the temporary restraining order expressly applies only to FSIS's inspection of the Valley Meat and Responsible Transportation facilities. *See* ECF No. 125 at 7. But circumstances have changed, and Rains Natural Meats is now eligible and requesting a grant of inspection. Without waiving any objections as to whether the underlying temporary restraining order is appropriate in these circumstances, Federal Defendants recognize that the Court may consider it appropriate to expand the *coverage* of the temporary restraining order to include Rains Natural Meats, as there is no substantial basis to distinguish the grant of inspection for that company from the grants for the other two facilities with regard to the Court's assessment of the factors for emergency injunctive relief. Should it choose to do so, the Court can accomplish this modification simply by adding "Rains Natural Meats" to the three operative paragraphs referencing the other two facilities, "Valley Meat and Responsible Transportation," as follows (additions in **bold underline**):

IT IS FURTHER ORDERED that the Federal Defendants are enjoined from dispatching inspectors to the horse slaughterhouse facilities operated by Intervenor-Defendants **Rains Natural Meats**, Valley Meat and Responsible Transportation until further order of the Court.

IT IS FURTHER ORDERED that the Federal Defendants are ordered to suspend

or withhold the provision of horse meat inspection services to **Rains Natural Meats**, Valley Meat and Responsible Transportation until further order of the Court.

IT IS FURTHER ORDERED that Defendants **Rains Natural Meats**, Valley Meat and Responsible Transportation are enjoined from commercial horse slaughter operations until further order of the Court.

*See* ECF No. 125 at 7.<sup>1</sup>

Rains Natural Meats has informed FSIS that it is ready to begin operations, and has requested inspectors at its facility in Gallatin, Missouri, no later than September 23, 2013. Because FSIS is required, as a matter of law, to provide inspectors for these operations, *see* 21 U.S.C. § 603(a), FSIS must do so, in the absence of an amendment to the Court's temporary restraining order, as specified above. Federal Defendants have advised Plaintiffs and Defendant-Intervenor Rains Natural Meats, through counsel of record, of Federal Defendants' positions on the issues discussed in this Notice and that Federal Defendants intended to file this Notice.

Respectfully submitted this 13th day of September, 2013.

ROBERT G. DREHER  
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United States Department of Justice

/s/ Andrew A. Smith  
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<sup>1</sup> Plaintiffs have sought to have the last of these three provisions removed from the temporary restraining order, ECF No. 112, but the Court has not ruled on that motion.

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2013, I filed through the United States District Court ECF System the foregoing document to be served by CM/ECF electronic filing on all counsel of record.

/s/Andrew A. Smith  
ANDREW A. SMITH  
U.S. Department of Justice