UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRONT RANGE EQUINE RESCUE, *et al.*,	)))))
Plaintiffs,	))
v.	)
TOM VILSACK, Secretary, U.S. Department of Agriculture, *et al.*,	))))))
Federal Defendants.	)))

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

DEFENDANT-INTERVENORS' REPLY TO PLAINTIFFS' RESPONSE TO *EXPEDITED* MOTION TO RECONSIDER AND FOR CLARIFICATION

COMES NOW Defendant Intervenors, Rains National Meats, Chevaline LLC and Valley Meats (collectively "Defendant-Intervenors") and hereby respectfully reply to the response of Plaintiffs' to the *Expedited* Motion to Reconsider and for Clarification:

Plaintiffs citation to *Ctr. for Biological Diversity v. Norton*, 336 F. Supp 2d 1155, (D.N.M. 2004) (quoting *Parts & Elec. Motors, Inc. v. Sterling Elec. Inc.*, 866 F.2d 228, 233 (7th Cir. 1988) for the proposition that erroneous decisions must stink like rotting dead fish in order to be considered by the Court is most certainly on point. What Plaintiffs are attempting to do in side-stepping the requirements of F. R. Civ. P. 65(c) by asking the Court to condone, if only erroneously by order, such disparate treatment plainly reeks.   Judge Scott's order is most certainly in error and the mistake of the

reasoning that even though the USDA is specifically enjoined from providing specifically to Rains Natural Meats the **requisite** Grant of Inspection and inspectors is most certainly the type of erroneous order that is contrary to F.R.Civ.P. 65(c) and the law of this case that is contemplated F. R Civ. P. 72(a) and the reasoning in *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Judge Scott's Order (ECF No. 199) erroneously states that Defendant-Intervenors failed to point to any order enjoins Rains Natural Meats from operating but that is the plain error that Defendant-Intervenors have raised in the Motion to Reconsider citing to the very Order (ECF No. 168) that Judge Scott failed to consider. It cannot be stated anymore plainly than the fact that if USDA is enjoined from providing the Grant of Inspection and inspectors to Rains Natural Meats then Rains Natural Meats cannot operate and is likewise enjoined by the same Order. Tedious splitting of hairs concerning the Court's order, when the effect and plain language supports the fact that the Court also intended to enjoin Rains Natural Meats just as was plainly requested by Plaintiffs, serves no other purpose other than to promote manifest injustice. This is same manifest injustice sought to be prevented in the Motion to Reconsider, as befalling Rains Natural Meats by the disparate treatment in relation to the other 2 companies similarly enjoined, and also the manifest injustice perpetrated by the extending of TRO against all 3 companies without extending the protections of the injunctive bonds for the benefit of plaintiffs when the Court has failed to enforce the requirement of Rule 65(c). Defendant-Intervenors do not disagree with the authorities cited to by Plaintiffs and argue that by incorporation they stand for the proposition that Defendant-Intervenors' Motion to Reconsider should be granted.

WHEREFORE, Defendant-Intervenors respectfully request that this Court order the injunction bonds for all of the Defendant-Intervenor processing plants be entered into

the Court registry for the appropriate amounts and for such other relief as the Court

deems just and proper.

Dated: October 29, 2013

> By: *- Electronically Signed by –A. Blair Dunn*
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> Valley Meat Company, LLC
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CERTIFICATE OF SERVICE

I certify that I filed the foregoing documents on October 29, 2013 using the ECF System, which will send notification to all parties of record.

-Electronically Signed by – A. Blair Dunn
A. Blair Dunn, Esq.