

Humane Farming Association * Humane Society of the United
States
Progressive Animal Welfare Society * Animal Welfare Institute
National Joint Council of Food Inspection Locals
Northwest Animal Rights Network * Pasado's Safe Haven
Government Accountability Project * Friends of Animals
Physicians' Committee for Responsible Medicine
American Society for the Prevention of Cruelty to Animals
People for the Ethical Treatment of Animals

May 31, 2000

Honorable Christine Gregoire
Attorney General
1125 Washington Street S.E.
P.O. Box 40100
Olympia, Washington 98504-0100

Hand-delivered to Seattle Office

Mr. Jim Jesernig
Director
Department of Agriculture
1111 Washington Street S.E.
P.O. Box 42560
Olympia, Washington 98504-2560

Re: Petition for Enforcement of Humane Slaughter and Animal Cruelty Laws

Dear Attorney General Gregoire and Director Jesernig,

On behalf of our members—millions of American citizens who care deeply about the welfare of workers, consumers, and animals—and on behalf of the National Joint Council of Food Inspection Locals, which represents more than 6,000 food inspectors, we are writing to bring your attention to well-documented wrongdoings at the IBP, Inc. (formerly Iowa Beef Processors) cattle slaughtering plant in Wallula, Washington (hereinafter “IBP-Wallula”). Specifically, we have attached affidavits from numerous workers at IBP-Wallula alleging ongoing, systematic violations of the state anti-cruelty and humane slaughter laws, as well as of basic public health and worker safety requirements. On their face, these affidavits document a pattern of law-breaking by IBP meriting prosecution by your office.

LEGAL BACKGROUND

Washington's Humane Slaughter Law

More than 30 years ago the legislature of the State of Washington declared that:

...the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry;...and produces other benefits to producers, processors, and consumers which tend to expedite the orderly flow of livestock and their products. It is therefore declared to be the policy of the state of Washington to require that the slaughter of all livestock, and the handling of livestock in connection with slaughter, shall be carried out only by humane methods and to provide that methods of slaughter shall conform generally to those authorized by the Federal Humane Slaughter Act of 1958, and regulations thereunder. RCW 16.50.100.

The state implemented that policy with a clear statutory directive requiring all Washington state slaughterhouse operators to ensure that animals are rendered unconscious prior to butchering: "No slaughterer or packer shall bleed or slaughter any livestock except by a humane method...." RCW 16.50.120. "Humane method" means: "A method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut." RCW 16.50.100 (3) (omitting exception for religious slaughter).

Criminal penalties are imposed upon those who violate this legal mandate. The statute also authorizes the issuance of injunctions against slaughterhouse operators where violations of law are taking place. RCW 16.50.160. As authorized by the statute, the state Department of Agriculture has issued regulations which, generally speaking, require slaughterhouse operators to abide by the existing federal regulations on humane slaughter. See RCW 16.50.100; WAC 16.24-01 to 16.24.50.

The Federal Humane Slaughter Act

The Federal Humane Slaughter Act, 7 U.S.C. 1901-1906 ("HSA"), requires that animals at slaughterhouses be both humanely handled and killed. The most important provision of the HSA requires that animals "...be rendered insensible to pain by a single blow...that is rapid and effective before being shackled, hoisted, thrown, cast, or cut."

Regulations promulgated by the state Department of Agriculture and the U.S. Department of Agriculture under the HSA impose extensive requirements on slaughterhouse operators, four of

which are relevant here. First, the regulations require that the stunning process must produce immediate insensibility in animals before the animals proceed down the slaughter line. Second, the regulations require "...that the animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort to the animals." 9 C.F.R. Sec. 313.15; WAC 16-24-030. Third, in order to ensure that animals are effectively stunned, the regulations require that "...the driving of the animals to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals." Id. Fourth, the regulations specify that, "immediately after the stunning blow is delivered, the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding." Id.

A 1978 amendment to the HSA grants federal meat inspectors—who are customarily stationed inside slaughterhouses to enforce federal food-safety laws—with authority to enforce the HSA. HSA regulations require USDA meat inspectors to stop the slaughter process when violations are not immediately corrected. 9 C.F.R. Sec. 313.50 USDA inspectors working in these plants, however, are provided very limited access to areas where violations are most likely to occur.

Washington's Anti-Cruelty Law

In addition to the prohibition on inhumane slaughter of livestock, Washington imposes even greater penalties upon those who are guilty of cruelty to animals. The state anti-cruelty law applies to slaughter as well as companion animals, and provides as follows:

Animal cruelty in the first degree.

- (1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.
- (2) Animal cruelty in the first degree is a class C felony. RCW 16.52.205. The affidavits cited below demonstrate that the willful, inhumane treatment of slaughter animals at IBP-Wallula violates the above laws and regulations.

FACTUAL BACKGROUND

In the last fifteen years, more than 2,000 small to mid-sized slaughterhouses—one-third of the nation's slaughterhouses—have been displaced by a small number of large, high-speed facilities, each with the capacity to kill several million animals a year. In 1998, more than one-half of the nation's cattle were killed in 14 plants. With fewer slaughterhouses killing a growing number of animals, packing companies have instituted dramatic increases in their production "line speeds". In high-speed operations where a minute of "down time" can spell a loss of several hundred

dollars, slaughterhouse operators no longer stop the production line for injured workers, contaminated meat, or live animals that are not effectively stunned. Workers—who are required to move thousands of animals per day through the slaughter process—are provided only a few seconds to perform their killing and butchering duties. Knowing that they will be disciplined or fired for impeding production, workers often find themselves resorting to brutality to keep the production line running uninterrupted.

When animals are excessively prodded, they arrive at the stun operator in an excited state. Because of this, and because workers do not have adequate time to properly perform the exacting stunning process, stunning is often ineffective. As a result, animals are often hung alive, or may regain consciousness down line, where they proceed through the skinning and dismemberment process fully conscious. See generally the enclosed book *Slaughterhouse* by Gail Eisnitz (Exhibit B). See also the attached affidavits taken from IBP-Wallula workers (Exhibits A 1-17).

SUMMARY OF ONGOING VIOLATIONS OF LAW AT IBP-WALLULA

IBP, Inc. is the nation's largest meatpacker. By achieving unprecedented economies of scale and production speeds in its slaughtering and packing operations, the company has succeeded in dominating the meat industry. The principal change at the company's Wallula plant has been an increase in the plant's production line speed. According to the affidavits we have obtained from workers at the plant, the line speed at IBP-Wallula has increased dramatically in recent years with a very minimal increase in staffing. As demonstrated by the attachments, the problems associated with these line speed increases are three-fold:

1) Ineffective Stunning

Contrary to the requirements that animals be humanely handled and that they be delivered to the stun area in a calm state to ensure effective stunning, workers at IBP-Wallula excessively shock and torment animals in driveways, according to the affidavits. Because of this, and because of increased line speeds, stunning is often unsuccessful. Indeed, the affidavits suggest that roughly 10 to perhaps 30 percent of the animals slaughtered at IBP-Wallula are not rendered insensitive to pain and thus proceed through the skinning and dismemberment process in a fully conscious state.

2) Worker Injuries

When workers attempt to skin and dismember live, struggling animals, they are often injured in the process. Workers who are kicked by frantic animals moving along the conveyor have suffered contusions, serious stab wounds, and lost fingers and teeth.

3) Contaminated Meat

As conscious cattle move down the production line, their thrashing causes sterile muscle tissue to become contaminated by feces and other adulterants on the surfaces of hides. Workers' ability to trim contaminants from animals is severely compromised by both animal movements and increased line speeds. As a result, adulterated meat can move freely into the cooler and into US food channels.

1) INEFFECTIVE STUNNING

The following describes the sequence in which cattle at IBP-Wallula are stunned, bled, and butchered. First, the animal is prodded from the holding pen through a series of "driveways" into a "knocking box." A stun operator or "knocker" shoots the animal in the center of its forehead with a cartridge-operated device that drives a steel bolt into the animal's skull. If properly powered, maintained, and used, the knocking gun will render the cow unconscious and the animal will collapse. Next, a "shackler" wraps a chain around one of the stunned cow's hind legs. The animal is then lifted onto a moving overhead rail. Hanging upside down by a leg, the cow is sent to a worker (called the "sticker") who cuts the cow's throat. The cow continues along the "bleed rail" and eventually reaches workers who open and remove the skin, cut off the animal's feet and insert meat hooks into the leg joints to rehang the animal on the moving rail. Mechanical devices are fastened to the hide to peel large portions of the hide from the animal's sides and back. Once the animal's torso is fully stripped of all skin, the head is skinned and removed and the body cavity is opened for evisceration.

Compliance with regulations governing the driving of livestock is key to effective stunning. Accordingly, federal regulations which are invoked by RCW 16.50.100 are very specific with regard to the driving of cattle and their delivery to the stunning area:

- "The driving of the animals to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals. Among other things, this requires that, in driving animals to the stunning areas, electrical equipment be used as little as possible...." 9 C.F.R. Sec. 313.15 (a) (2)
- "...Livestock shall not be forced to move any faster than a normal walking speed." 9 C.F.R. Sec. 313.2 (a)
- "Electric prods...shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which...is excessive is prohibited." 9 C.F.R. Sec. 313.2 (b)

At IBP-Wallula, however, as evidenced by the following quotations from the attached affidavits, animals presented for stunning are often jumping wildly:

Affidavit #2, paragraph 9:

“The cows are hit too much with the hotshots [electric prods], because sometimes they don’t want to walk and the workers have to be giving them shots a lot to keep the line going...The workers do that a lot. They’re trying to move all the cows and do it fast. That’s why the cows are all crazy when they get to the knockers; they’re all jumping around and everything....”

Affidavit # 3, paragraph 10:

“Sometimes the cows don’t want to walk into the knocking area....So the workers prod the cows to get them to go. As a result, the cows are jumping a lot when they come into the knocking box. A lot.”

Affidavit #17, paragraph 16:

“Sometimes cows that are driven up to the knocking box go down. They make them run too much and they are tired. They prod them with an electric prod. The cow falls down. And then sometimes the other cows run over them.”

Affidavit #6, paragraph 9:

“Sometimes the cattle don’t come in [to the knocking box]—the workers need to put too much pressure on them. They use hotshots outside when the cows aren’t coming in inside. As a result, when they come inside, they are jumping too much....”

The attached videotape (Exhibit C) further demonstrates the excessive use of unlawful prodding devices and the cruel manner in which animals are driven up into the stunning area, putting the animals into a panicked state by the time they reach the stun operator.

The affidavits also demonstrate that regardless of whether the animals arrive at the stun operator in the proper condition, they are often ineffectively stunned because there is insufficient time for proper placement of the stunning device. There is only a very small area of the forehead which, when struck with a “captive bolt” stunning device, will produce unconsciousness. Accordingly, federal and state regulations are very specific with regard to the execution of the stunning procedure:

- Stunning requires “...the operator to locate the stunning blow with a high degree of accuracy.” 9 C.F.R. Sec. 313.15 (b) (iii); WAC 16-24-030 (2) (a) (iii).
- “The stunning procedure is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness.” 9 C.F.R. Sec. 313.15 (b) (iv); WAC 16-24-030 (2) (a) (iv).
- “...The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.” 9 C.F.R. Sec. 313.15 (a); WAC 16-24-030 (1) (a).

At IBP-Wallula, stun operators are often unable to render cattle unconscious, as evidenced by the following affidavits:

Affidavit #6, paragraphs 5 and 9:

“There’s a problem for me with knocking the cows. The chain goes too fast, more than 300 cows an hour....If I can’t get the animal knocked right, it keeps going....The chain doesn’t stop. It keeps running. It never stops. The cows are getting hung alive or not alive. They keep coming in. They just keep coming, coming, coming.”

“Sometimes...I need 30, 40 seconds or even a minute to [stun] one animal. They’re jumping and moving...because they’ve been prodded so much. The supervisors say, ‘Keep knocking, knocking!’ You end up knocking the cow in the ear—not very good. The supervisors say, ‘It’s okay. Go, go, go, go!’”

Affidavit #3, paragraph 7:

“The problem in the knocking box is that you have to work real fast because the chain is too fast and the animals that come into the box are jumping everywhere. And sometimes...you don’t shoot the cow really right. And you let him go like that. And the shacklers, they get them like that, and so they shackle them alive....”

Affidavit #2, paragraphs 10:

“The knocker really only can hit the cows once....And sometimes the cow is moving and they don’t do it in the right spot. Sometimes even if they miss, they just hang them and send them out like that because they don’t have time.”

Affidavit #4, paragraph 4:

“The majority of the time, the knockers are in such a hurry that they can’t knock the cows good enough. Some of the cows get up and run around chasing. When cows are hung alive on the chain, they look like they are trying to get unhooked to run.”

Affidavit #16, paragraph 4:

“Sometimes the knocker knocks the cows and when he opens the door the cows stand up and start running. Because there’s no time. When you’re knocking, you do it and you open the door and that’s it. The knocker doesn’t have any time to make sure that the animal is stunned....”

After cattle are knocked, shackled, and hoisted, they are bled. While cattle require several minutes to fully bleed out, the cattle at IBP-Wallula are apparently not provided this time. Thus, inadequately stunned animals are often still alive and conscious as they proceed down the production line.

When workers are unable to perform their duties because of the dangers posed by live, thrashing cattle, IBP supervisors assist to assure that the task is done regardless of the animal's state of consciousness.

The following excerpts from workers' affidavits demonstrate violations of the central provision of federal and state regulations: "Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding." 9 C.F.R. Sec. 313.15(a)(3); WAC 16-24-030(1)(c).

Affidavit #17, paragraph 8:

"It takes about four minutes for the cow to go from the knocker to the second legger...I think the cows are still alive because they move the head and the eyes and the legs like the cow wants to walk. And the cow makes noises. Also, if you put a knife into the cow, it's going to make noise. It says, 'Moo!'...."

Affidavit #3, paragraph 4:

"I estimate that 30 percent of the cows are not properly knocked and get to the first legger alive....To still be alive at the second legger the cows have gone alive from the knocker to the sticker to the belly ripper (he cuts the hide down the center of the cow's abdomen) to the tail ripper (he opens the [rectum]) to the first legger (he skins a back leg and then cuts off the foot) to the first butter (he skins from the breast to the belly and a little bit on the back) to the worker who cuts off both front feet. Those cows then go to a worker who sticks a hook into the joint where the first legger took off the foot and the cows are hung from the trolley hook. I can tell that these cows are alive because they're holding their heads up and a lot of times they make noise."

Affidavit #6, paragraph 6, 7, 8:

"...All the workers can open the legs, the stomach, the neck, cut off the feet while the cow is breathing. It makes noise...And the cattle go down the line for many minutes and they're still alive. They cut the legs and everything. The cattle move their eyes and their nose. They're looking around.

"Sometimes the supervisor comes and works on the live cows. They don't want workers to stop the chain, so when the live cows are really active, workers are supposed to honk the horn and the supervisor will come to help them skin the live cow....

"I would estimate that one out of ten cows is still alive when it's bled and skinned."

Affidavit #9, paragraphs 5, 8, and 11:

"I have seen thousands and thousands of cows go through the slaughter process alive since I have been at the plant."

“The cows can get ten minutes down the line and still be alive. I’ve been up to the side-puller where they are alive. All the hide is stripped out down to the neck there.”

“...If I see a live animal, I cannot stop the line. Because the supervisor has told us that you can work on a cow that’s alive....”

Affidavit #7, paragraph 3:

“There are 12 or 13 stations between the knocker and me...The cows are still alive when they get to me....It takes them about ten minutes to get from the sticker to me...Out of 100, I would estimate that about 15 or 20 are still alive when they get to me.”

Affidavit #8, paragraph 4:

“About thirty percent of the cows are still alive down the line. Sometimes more. I would see that they would be hanging there, trying to pick up their heads, they would move back and forth on the shackle, they would be blinking their eyes and looking around. You know they’re alive because they are breathing real hard, they make noise, they kick the other cows, and it moves the whole chain.”

Affidavit #12, paragraphs 4 and 5:

“The problem of live cows has been a problem for many years. The reason I think the cows are alive is because they are moving and they open their mouths and their eyes. Their eyes look like they are popping out. And I feel sorry for them. I feel bad that I have to do my job on them.

“Sometimes when the cows are alive and they go down the line the workers will hit them with a knife in the back of the neck in the spinal chord to paralyze them from the neck down. I don’t think that is legal. When they do that, it makes them unable to move, but they’re brains are still working....”

This alleged practice is, in fact, illegal. Federal and state regulations provide for three methods of humanely rendering animals insensitive to pain—chemical, i.e., carbon dioxide gas, mechanical, i.e., captive bolt or gunshot, or electric charge. 9 C.F.R. Secs. 313.5, 313.15, 313.16, 313.30 and WAC 16-24-020 through 16-24-050. Knives may be only used on animals after they are in a state of complete unconsciousness.

2) WORKER INJURIES

Violations of humane slaughter regulations not only cause undue suffering to animals but pose serious safety risks to the workers. Workers at IBP-Wallula have reported serious injuries while attempting to skin and remove the legs of live, thrashing cows. This is also documented in the affidavits:

Affidavit #9, paragraph 12:

“The live cows cause a lot of injuries in there. I have been injured three times. My most recent injury was about a year ago. I use an air knife for my job. The cow was alive. The supervisor was holding the cow’s leg so I could do my job. When the air knife and the cow started to move around, the cow kicked my arm up, and the air knife went into my wrist.”

Affidavit #10, paragraph 3:

“I got kicked in the jaw by a cow that had been knocked but it was still alive. They had already knocked the cow and it was still alive and it kicked me under the chin. I received seven stitches for that.”

Affidavit #16, paragraph 23:

“There are accidents because the cows are still alive. At the back hoof, the cow was kicking and it cut off one worker’s three fingers. The cows are kicking and jumping and everything. And the company didn’t save the fingers, so the worker lost them....”

Affidavit #17, paragraph 2:

[redacted to maintain the affiant’s confidentiality]

3) CONTAMINATED MEAT

Processing of conscious animals also diminishes the safety of the meat produced. At current line speeds, neither federal inspectors nor workers can ensure the removal of adulterants.

Affidavit #4, paragraph 5:

“It’s real hard to do your job because the cows are moving at the same time you’re trying to do your job....Sometimes you can’t even do your job not only because the cows are alive, but because the chain is running so fast. Even though I’m supposed to trim contaminants, you don’t have time to clean all the pus, shit, hair, and dirt off the cows.”

Affidavit #2, paragraph 21:

“Sometimes when the cows have manure on them and the cows are alive— usually it’s the supervisor who holds the legs so the workers can do their jobs— and the cows pulls or something and the supervisor has to let go of it, the skin flips around and gets manure off the cow’s skin, and you can see that the meat is all green and all dirty from the manure. The meat gets dirty with manure because the skin is dirty and the cows are kicking.”

Affidavit #7, paragraph 11:

“I see cows with a lot of contamination. A lot of pus. Because the inspector’s not watching. And there’s a lot of contamination on the floor. All the cows that are passing by, they’re getting contaminated too. And then USDA doesn’t go out there and watch them any more....”

There are two reasons that “...USDA doesn’t go out there and watch them any more....” First, in 1998, the USDA implemented an inspection program called Hazard Analysis Critical Control Points (HACCP). HACCP transfers many federal inspection duties from USDA inspectors to corporate quality control personnel. By reducing the authority of inspectors in the plant, and by giving the plant’s operator more influence over where inspection activities are conducted, the implementation of HACCP at IBP-Wallula has severely impeded inspectors’ ability to ensure compliance with meat safety and, to a greater extent, humane slaughter regulations.

Second, the plant operator recently erected a steel partition on the kill floor which, in effect, seals off the skinning and dismembering areas from the USDA head inspection station. The head inspection station is the station where humane slaughter violations had previously been observed. This completely obstructs USDA inspectors’ view of humane slaughter violations.

Affidavit #9, paragraph 9:

“Today, it’s rare that USDA is in the area. USDA used to stop the line for live cows. Three to four years ago, USDA used to go in and inspect the lines and things. The company is supposed to be supervised by the USDA so everything can go right. But, the USDA and the company kind of made a contract with each other. Before, the USDA would inspect, but now USDA has left it up to IBP....”

Affidavit #17:

“Until two or three years ago, the USDA inspectors stopped the line for live cows. The inspector, if he saw a cow that was still conscious, stopped the chain. But not any more. The USDA is never in the area. Plus, IBP put a metal wall so that inspectors can’t see when the cows are alive.”

Affidavit #3, paragraph 12:

“I’ve seen a lot of changes in USDA coming back to this area to see what’s going on. When I first started, if USDA passed a live beef on the chain, they stopped the chain. But now the company put a piece of metal between where the head inspectors are stationed and where the slaughter takes place.... So now the inspectors don’t stop the chain when the live beef pass....I’d estimate that USDA inspectors come back there to look around about once a month.”

REQUEST FOR INITIATION OF ENFORCEMENT ACTION

Workers state that the humane slaughter violations described in the attached affidavits have been ongoing at IBP-Wallula for many years, despite their repeated requests to supervisors for corrective action. Indeed, one year ago, workers made information about humane slaughter violations public (Exhibit D) but neither management nor regulatory authorities took action in response.

As you know, Washington State law provides that information provided by citizens of potential wrongdoing “is vital to...the efficient operation of government”. RCW 4.24.500. Furthermore, RCW 4.24.510 provides immunity for good faith communication to government regarding any matter reasonably of concern to that agency.

Based on the facts and legal arguments set forth above, we request that you initiate an enforcement action against IBP-Wallula to remedy the demonstrated threats to animal welfare and worker safety and to prosecute the company for the demonstrated violations of state and federal requirements. As pointed out above, Washington state law provides a variety of remedies and penalties for violations of the humane slaughter and animal cruelty laws, including civil and criminal penalties, and injunctive relief. This is an opportunity for Washington to demonstrate national leadership in addressing irresponsible and illegal activity which hitherto has been largely ignored by the federal government.¹

To any extent that you direct, we stand ready to assist you in further documenting violations of the law and the serious threats to worker safety and public health that exist at IBP-Wallula.

Once you have had the opportunity to review this information, we would like to meet with you to discuss the matter. Our attorneys will contact your respective offices in the next few days to schedule appointments.

Signatures:

Bradley Miller
National Director
Humane Farming Association
San Francisco, CA

Arthur C. Hughes
Vice Chairman
National Joint Council of Food
Inspection Locals
AFGE, AFL-CIO
Remlap, AL

¹ We are aware of at least one other case in which a state attorney general has filed criminal charges against the operator of a commercial slaughterhouse. See Exhibit E.

Attachments A1-A17, B, C, D, E

cc: Governor Gary Locke

Bruce Johnson, Esq., Davis, Wright & Tremain