



November 30, 2006

Dr. Richard Raymond
Under Secretary for Food Safety
United States Department of Agriculture
Room 227-E
Jamie L. Whitten Building
12th Street and Jefferson Drive, SW
Washington, DC 20250

Transmitted via facsimile: (202) 690-0820

Dear Dr. Raymond:

We strongly object to a recent decision by USDA's Food Safety and Inspection Service to allow the Swift plant in Grand Island, Nebraska to sell beef that clearly should have been rejected for human consumption. The company doused 493 beef carcasses with the filth previously collected in the drains on its kill floor – which certainly would have included fecal material, pus from abscesses, cleaning chemicals, dirt that entered the plant on workers' shoes, and many other substances that should not come in contact with human food. FSIS should have followed its own regulations which specifically require that all product adulterated with polluted water be condemned. Instead, FSIS allowed Swift to “rework” the product and sell it with the USDA seal of inspection.

We have learned that in late October, an employee's mistake and/or equipment malfunction allowed sewage water to be drawn back into the company's potable water supply. This water was then sprayed on 493 carcasses before FSIS became aware of the problem and shut down the kill floor. FSIS kept the kill floor shut down for a day and a half, but allowed Swift to hold the product in a chiller, where it stayed for over a week while the company petitioned the agency not to condemn it. At that point, FSIS inspectors provided several days of oversight while Swift employees trimmed the external surfaces from the outside of the carcass halves. The carcass halves were then rinsed with several chemicals. FSIS' Office of Public Health Science developed a sampling protocol specifically for this situation and some of the carcass halves were tested for *E. coli* O157:H7, *Salmonella*, generic *E. coli* and several other non-pathogenic microbes. There were no pathogens found in the samples collected from those carcass halves that were selected for testing. Cuts of meat from these carcasses were then allowed to enter commerce as raw product. FSIS required that all of the scraps remaining after the carcasses were broken down into cuts be cooked before entering commerce (in products such as canned soup or chili).

We are very concerned that these actions by FSIS violated regulations, may have resulted in unsafe or unwholesome product reaching consumers, and at the very least, abandoned longstanding consumer expectations about the sanitation standards in USDA-inspected plants.

In 9 CFR §318.14, “Adulteration of product by polluted water; procedure for handling,” the regulation provides:

(a) In the event there is polluted water (including but not limited to flood water) in an official establishment, all products and ingredients for use in the preparation of such products that have been rendered adulterated by the water shall be condemned.

While there are other sections of the regulations that allow for the rework of product that has become adulterated, the existence of this regulation indicates that this specific situation, polluted water, establishes a clear exception to the general rule.

Further, we are not confident that the steps taken guaranteed the safety of the product and believe that certain questions must be answered:

- We understand that the outside of the carcass was completely trimmed and all of the external material was condemned and discarded. However, there is no similar protective layer of fat on the inside of the carcass halves that could be trimmed off. These surfaces were also soaked with the sewage water, after which they were left in a chiller for over a week before additional chemical treatments were applied. How can the agency be certain that any pathogens present before chilling did not adhere and multiply sufficiently so that the subsequent chemical treatments failed to destroy all of the pathogens on the inside of the carcasses? Did the agency take a representative number of samples from the inside, as well as the outside, of the carcasses?
- What was the specific sampling protocol used for the microbial tests on the carcasses? What level of confidence was achieved by this protocol in guaranteeing that no public health danger was presented by this product?
- Who performed the sampling and microbial analysis, Swift or FSIS? If Swift employees were permitted to do the analysis, were FSIS inspectors instructed to oversee that proper procedures were used? Did FSIS ensure that there was no tampering with the samples on the way to the lab? Did Swift provide FSIS with the actual lab documentation or just report a summary of the results?
- What type of preventive measures was the company required to implement to ensure that this situation will not be repeated?

Even if there were absolute certainty that this product was safe (which no sampling protocol could provide), this is a circumstance in which product adulteration is so extensive and offensive that allowing companies to salvage and sell it to unsuspecting consumers is unreasonable. We



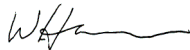
feel confident that this is not what consumers expect from the USDA. When consumers buy beef and prepare it for their families, they expect that it was produced in a reasonably sanitary environment, and that both the process and the product had been subject to rigorous USDA inspection and standards. The ideal that the USDA seal of inspection provides some assurance of safety is also actively promoted by the meat industry. In its materials promoting U.S. meat to customers in other countries, the US Meat Export Federation states that the USDA seal signifies that the product is in compliance with regulations “to assure maximum wholesomeness.” But in this situation, the agency wholly disregarded these longstanding consumer expectations and allowed a product that most people would regard as unwholesome to be sold.

Finally, we do not believe that FSIS maintained its proper role as a regulator in this situation. FSIS’ HACCP inspection program is supposed to prevent the production of unsafe food. In this situation, rather than maintaining standards which create incentives for establishments to control food safety processes, FSIS caved in to industry pressure, assisted Swift in escaping the consequences of its own negligence, and diverted its own scarce resources to enable the company to profit by selling questionable product to unsuspecting consumers. We wonder how frequently and in what situations FSIS believes this is an appropriate regulatory response. We are currently aware of at least one small establishment that in a similar situation, asked to rework the product, and was denied. Does FSIS have different rules for different size plants?

There are not many passages in Upton Sinclair’s *The Jungle* that are more shocking than the conditions condoned, and even facilitated, by FSIS in this situation. If FSIS maintains that its actions were reasonable, we would like to understand just how extensive adulteration must be before FSIS will act to keep a product from reaching consumers. We are concerned that this is yet another example of how meat inspection is being deregulated by this Administration to the detriment of consumers.

The agency must have clear guidelines about when a product is adulterated and should issue clarifications concerning the rework of adulterated product so that this situation is not repeated. Please respond in writing to the questions we have presented in this letter, so we may better understand how the agency is interpreting these rules.

Sincerely,



Wenonah Hauter
Executive Director

cc:

Senator Saxby Chambliss
Senator Tom Harkin
Senator Robert Bennett
Senator Herbert Kohl
Congressman Robert Goodlatte
Congressman Collin Peterson



Congressman Henry Bonilla
Congresswoman Rosa DeLauro
FSIS Administrator Dr. Barbara Masters
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