



July 13, 2017

The Honorable Rob Klimisch
Yankton County State's Attorney

Via e-mail: rob@co.yankton.sd.us

Dear Mr. Klimisch,

I hope this letter finds you well. I would like to request that your office (and the proper local law-enforcement agency, as you deem appropriate) investigate and file suitable criminal charges against Cimpl's, LLC, and its workers responsible for repeatedly shooting cattle in the head on four dates within the past two months at its slaughterhouse, located at 1000 Cattle Dr. in Yankton. These incidents are documented in the attached reports by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS).

According to the reports, federal officials documented the following:

- **May 18, 2017:** "[A] bull enter[ed] the stunning area. . . . After the first stun with the pneumatic stunner, the bull was still rhythmically breathing, blinking with a positive palpebral reflex and eye tracking, and remained standing. . . . The establishment employee attempted to re-stun the bull . . . however . . . the counterbalance stuck. The employee attempted . . . an additional four times and each time the counterbalance stuck. . . . On the fifth attempt . . . the bull was rendered unconscious. The employee attempted . . . a security knock . . . the . . . stunner misfired again Upon examination . . . the [Public Health Veterinarian] observed two stun wounds. One . . . made a depression in the skull but did not penetrate through the skull. The second stun wound penetrated the skull."¹
- **May 30, 2017:** "[A] bull enter[ed] the stunning area. . . . When the stunning employee placed the pneumatic stunner directly onto the forehead and depressed the trigger . . . the bull remained standing. The . . . employee applied an immediate second stun . . . and the bull still remained standing. The . . . employee immediately applied a third stun . . . rendering the bull unconscious. [A]ll 3 stuns made contact with the head and the . . . stunner engaged"²
- **June 13, 2017:** "[T]he establishment restrain[ed] a bull After the first stun with the pneumatic stunner, the bull remained conscious and . . . standing, rhythmically breathing, and eye tracking. The . . . employee immediately applied a second stun The bull remained conscious and . . . standing, rhythmically breathing, and had a positive palpebral reflex and eye tracking. The . . . employee immediately applied a third stun . . . rendering the bull unconscious. All 3 stuns . . . made contact with the head and the . . . stunner engaged."³

¹FSIS District 25 Manager Dawn Sprouls, *Notice of Intended Enforcement, Est. M2460 – Cimpl's Inc.* (May 19, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/c1a79d21-3d2b-4b40-9f08-62353e3ea4c9/M2460-NOIE-051917.pdf?MOD=AJPERES>.

²FSIS District 25 Manager Dawn Sprouls, *Notice of Suspension, Est. M2460 – Cimpl's Inc.* (May 30, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/cfc7513e-9647-4300-b5b9-8b4b8eb261fe/M2460-Suspension-053017.pdf?MOD=AJPERES>.

³FSIS District 25 Manager Dawn Sprouls, *Reinstatement of Notice Suspension, Est. M2460 – Cimpl's Inc.* (June 13, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/6e036ce9-ce41-4f2b-9274-76ac7c38a83f/M2460-NOROS-061317.pdf?MOD=AJPERES>.

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- **June 16, 2017:** "[T]he stunning employee restrain[ed] the bull . . . The . . . employee placed the pneumatic stunner directly on the bulls [sic] forehead, depressed the triggers, and the . . . stunner 'bounced' off the head. The bull remained standing and conscious. The . . . employee immediately applied a second stun . . . rendering the bull unconscious. . . . Upon examination . . . the CSI observed 2 stun wounds. One of the stun wounds penetrated the hide but did not penetrate the skull. The second stun wound penetrated the skull. . . ."4

This conduct appears to violate South Dakota's mistreatment of animals statute,⁵ which prohibits a person from "caus[ing] or permit[ing] the continuation of unjustifiable physical pain or suffering of an animal."⁶ "Animal" is defined as "any mammal, bird, reptile, amphibian, or fish, except humans."⁷ Specifically, the workers failed to stun cattle on the first one or two attempts, thereby possibly causing the animals pain and prolonged suffering. This conduct is not exempt from the mistreatment statute, which, with respect to "livestock," exempts only "[a]ny usual and customary practice"⁸ and "[a]ny humane killing."⁹ Repeatedly shooting one animal with a captive bolt is not a usual and customary practice, nor is it a humane method of killing, as FSIS' action demonstrates. Importantly, FSIS action does not preempt criminal liability under state law for slaughterhouse workers who perpetrate acts of cruelty to animals.¹⁰

We respectfully request that your offices investigate Cimpl's and the workers responsible for this conduct and file animal-mistreatment charges against all appropriate parties. Please let me know what we might do to assist you. Thank you for your consideration and for the difficult work that you do.

Sincerely,



Melissa Mary Wilson
Attorney, Cruelty Investigations Department

⁴FSIS District 25 Manager Dawn Sprouls, *Reinstatement of Notice Suspension, Est. M2460 – Cimpl's Inc.* (June 16, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/e30426d0-630e-41f8-9cdf-dc9b9b4ca84e/M2460-NOROS-061617.pdf?MOD=AJPERES>.

⁵S.D. CODIFIED LAWS § 40-1-2.3.

⁶S.D. CODIFIED LAWS § 40-1-1(9).

⁷S.D. CODIFIED LAWS § 40-1-1(2).

⁸S.D. CODIFIED LAWS § 40-1-17(1).

⁹S.D. CODIFIED LAWS § 40-1-17(2).

¹⁰*See Nat'l Meat Assoc. v. Harris*, 132 S. Ct. 965, 974 n.10 (2012) (" . . . States may exact civil or criminal penalties for animal cruelty or other conduct that also violates the FMIA. *See* [21 U.S.C.] §678; *cf. Bates v. Dow Agrosciences, LLC*, 544 U. S. 431, 447 (2005) (holding that a preemption clause barring state laws 'in addition to or different' from a federal Act does not interfere with an 'equivalent' state provision). Although the FMIA [Federal Meat Inspection Act] preempts much state law involving slaughterhouses, it thus leaves some room for the States to regulate.").