



June 26, 2017

Solicitor Barry Barnette  
Seventh Circuit Solicitor's Office

Via e-mail: [bbarnette@spartanburgcounty.org](mailto:bbarnette@spartanburgcounty.org)

Dear Mr. Barnette,

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 Foster's Meats and its worker(s) responsible for failing to stun a pig on the first attempt at its slaughterhouse located at 653 Berry Shoals Rd. in Duncan. This caused the pig to endure a prolonged death, before which the animal endured four gunshot wounds, an electrical shock, being hoisted twice, and being stabbed with a knife in the neck before being effectively rendered unconscious. This is documented in the attached report by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS).

According to the report, on May 22, 2017, federal officials documented the following:

. . . Inspection Program Personnel (IPP) observed establishment personnel shoot a hog in the head with a .22 caliber long rifle. The hog vocalized and took approximately 2 steps backward, but it did not lose consciousness. Establishment personnel . . . appl[ied] an electrical current to the back of the hogs [sic] head. The hog went down but as it was being hoisted, the hog regained consciousness. The hog vocalized, was blinking and had tracking eye movement. Establishment personnel shot the hog a second time in the head with a .22 caliber long rifle. The hog was then hoisted and stuck in the neck with a knife but did not bleed out. . . . [T]he hog was blinking, had tracking movement and was trying to right itself. The hog was then lowered back to the floor and shot two . . . more times in the head with the .22 caliber long rifle . . .<sup>1</sup>

This conduct appears to violate the South Carolina cruelty-to-animals statute, which states that a person shall not "cruelly kill[ ] or inflict[] excessive or repeated unnecessary pain or suffering upon an animal."<sup>2</sup> "Animal" is defined as "a living vertebrate creature except a homo sapien."<sup>3</sup> Specifically, the workers apparently consciously engaged in three failed gunshots and in premature hoisting and bleeding attempts, causing the animal unnecessary injury and, likely, prolonged suffering. This conduct is not exempt from the cruelty statute, which,

<sup>1</sup>FSIS District 85 Manager Dr. Phyllis Adams, *Notice of Suspension, Est.M46081 – Foster's Meat*, (May 22, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/0971b200-7687-4d11-9c1b-e0907268cf77/M46081-Suspension-052217.pdf?MOD=AJPERES>.

<sup>2</sup>S.C. CODE ANN. § 47-1-40 (B).

<sup>3</sup>S.C. CODE ANN. § 47-1-10 (1).

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with respect to "farm operations," exempts only "accepted animal husbandry practices."<sup>4</sup> Repeatedly shooting an animal is not an accepted industry practice, nor is hoisting and attempting to bleed an animal before the animal is confirmed to be unconscious, as the FSIS action demonstrates. Importantly, FSIS action does not preempt criminal liability under state law for slaughterhouse workers who perpetrate acts of cruelty to animals.<sup>5</sup>

We respectfully request that your office investigate Foster's Meats and the worker(s) responsible for this conduct and file cruelty charges against all appropriate parties. Please let us 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, Esq.  
Policy Associate

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<sup>4</sup>S.C. CODE ANN. § 47-1-40 (C). The statute also exempts "agricultural practices," which state law does not define, but which seems to refer to the raising of crops, and not the slaughter of animals. *See, e.g.* USDA, Good Agricultural Practices and Good Handling Practices Audit Verification Program User Guide (2011), *available at* <https://agriculture.sc.gov/wp-content/uploads/2014/06/GAPusersguide.pdf>.

<sup>5</sup>*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.").