

November 29, 2004

Dr. Elsa A. Murano
Under Secretary for Food Safety
United States Department of Agriculture
1400 Independence Ave., S.W., Rm. 227-E
Washington, DC 20250

RE: Violations of the Humane Methods of Livestock Slaughter
Act at Agriprocessors, Inc., Postville, Iowa

Dear Under Secretary Murano:

I am writing to direct your attention to recent conduct in Postville, Ia., witnessed and documented by an investigator for People for the Ethical Treatment of Animals ("PETA") which constitutes violations of the Humane Methods of Livestock Slaughter Act ("HMSA"), 7 U.S.C. § 1902.¹

The conduct at issue occurred between July 22, 2004, and September 12, 2004, at a slaughterhouse owned and operated by Agriprocessors, Inc., 220 West St., Postville, IA, 52162. Agriprocessors, whose products are sold under the label "Rubashkin's/Aaron's Best," is the self-proclaimed largest glatt² kosher meat, poultry, and provisions manufacturer in the world.³

Enclosed is edited video footage that contains examples of violations of the HMSA which transpired during the course of a 7-week PETA investigation and were documented in their entirety, along with scores of additional violations, in a series of videos filmed by the investigator.⁴ PETA initiated this investigation after concerns about animal welfare at Agriprocessors surfaced last year, and after subsequent offers by PETA to work in confidence with Agriprocessors to implement more humane methods of slaughter at the facility were dismissed with the claim that "[k]osher slaughter is being conducted [at Agriprocessors,

¹ Please note that all violations of the HMSA represent violations of section 610(b) of The Federal Meat Inspection Act as well which prohibits the slaughtering or handling of animals "in any manner not in accordance with the HMSA." 21 U.S.C. § 610(b). For the sake of simplicity, all violations are referenced herein as "violations of the HMSA."

² The term "glatt" is applied to meat in which the lungs of the animals were smooth, without any adhesions which could disqualify it as kosher. Rabbi Ari Z. Zivotofsky, *What's the Truth About Glatt Kosher*, Jewish Action (Winter 1999).

³ See <http://207.44.245.89/rubashkin/index1.html>.

⁴ The unedited video tapes as well as digital photographs and video clips are available on request. The PETA investigator is also available to assist your office upon request and at your convenience.



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Inc.] in accordance with the letter and spirit of Jewish law, which prescribes the most humane treatment of animals that has been known throughout human history.”⁵ The enclosed video belies this statement and instead evidences procedures that are both “cruel” and involve “flagrant violations” of Jewish law, according to prominent leaders in the Jewish faith.⁶

The video footage reveals animals who are victims of the *purported* humane and *purported* kosher slaughter process at Agriprocessors but who are, in fact, subjected to increased pain and suffering because they are *not* slaughtered in accordance with the ritual requirements of the Jewish faith and in the manner sanctioned by the HMSA. The animals, who have not been stunned, remain fully conscious after having their throats slit – some for more than 3 minutes. Cattle can be heard vocalizing in distress after the cut is made, as a metal hook is inserted into the open wound and their tracheas and esophagi are yanked out of their bodies, as they are dumped to the floor from the restraining pen that has held them immobile and upside down, as they struggle to stand and flee, and lastly, as they are hoisted and hung by a single leg for further dismembering.

Attached are statements by two independent, internationally renowned experts in the fields of halacha (Jewish law) and specifically shechitah (kosher slaughter) as well as Dr. Temple Grandin the foremost expert in all aspects of the kosher (and standard) slaughter of farmed animals. Dr. Grandin serves as an advisor to both the U.S. Department of Agriculture (“USDA”) and the American Meat Institute and has been instrumental in the improvement of operations in numerous kosher slaughter facilities. These authorities unequivocally declare that the procedures depicted in the edited video footage: (1) are either not sanctioned by halacha in the first place or are not performed properly and constitute violations of halacha and thus violations of the HMSA; and (2) do not achieve loss of consciousness in the manner required by the HMSA.

The complaint against the actions of Agriprocessors, Inc., and its employees is detailed below.

The video provides incontrovertible evidence of chronic violations of the HMSA at the above-referenced facility and thus warrants: (1) an immediate suspension of inspection services at the facility pursuant to 21 U.S.C. § 603(b) and 9 C.F.R. § 500.3(b); (2) a withdrawal of the grant of federal inspection pursuant to 9 C.F.R. § 500.6(g); and (3) an investigation and criminal prosecution of all culpable parties pursuant to 21 U.S.C. §§ 610(b) and 676(a).

⁵ Letter from Nathan Lewin, Lewin & Lewin LLP to Steven Jay Gross, Ph.D., PETA (August 26, 2003). Ex. A. See also, letter in response from Steven Jay Gross, Ph.D., PETA, to Gary T. Norris, Manager, Agriprocessors, Inc. (Nov. 3, 2003). Ex. B.

⁶ See e-mail from Rabbi Shear-Yashuv Cohen, Chief Rabbi of Haifa, Israel, to PETA (Nov. 23, 2004). Ex. C; e-mail from Rabbi David Rosen, Former Chief Rabbi of Ireland, to Aaron Gross, Religious Studies Department, University of California, Santa Barbara (Nov. 23, 2004). Ex. D.

I. THE HUMANE METHODS OF LIVESTOCK SLAUGHTER ACT

7 U.S.C. § 1902 prohibits any “method of slaughtering or handling in connection with slaughtering ... unless it is humane.” The statute specifies humane methods to include:

- (a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
- (b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

Thus, in order for the slaughter method to be humane as prescribed in subsection (b), it must be in accordance with the ritual requirements of the Jewish faith and it must affect loss of consciousness by anemia of the brain in the manner prescribed.

II. REQUIREMENTS OF SHECHITAH – KOSHER SLAUGHTER

Halacha, or Jewish law, dictates all of the procedures required to ensure that meat is kosher. One such procedure is shechitah, the method of slaughter by which the animal is killed with a quick, deep stroke across the throat with a sharp knife.⁷ Shechitah is performed by a person known as a shochet who has received special education and instruction in the requirements of shechitah.⁸ (Both terms are derived from the Hebrew root Shin-Chet-Tav which means to destroy or kill.)⁹

Effective shechitah can only be achieved by a skilled shochet and with a knife blade that is sharp and free of imperfections.¹⁰ The five most common instances in which Shechitah is disqualified (and thus the meat is not kosher) occur when: (1) the shochet hesitates and thus the strokes of the knife are not continuous; (2) the cut is made outside the prescribed area of the neck; (3) the shochet applies

⁷ *Humane Slaughtering of Livestock and Poultry: Hearings on S. 1636 Before the Senate Subcommittee on Agriculture and Forestry*, 84th Cong. 144 (1956) (statement of Leo Pfeffer, General Counsel, American Jewish Congress).

⁸ *Id.*

⁹ See <http://meat.tamu.edu/kosher.html>.

¹⁰ *Humane Slaughtering of Livestock and Poultry: Hearings on S. 1636 Before the Senate Subcommittee on Agriculture and Forestry*, *supra* n. 7.

pressure to the knife; (4) the blade tears the trachea or esophagus; or (5) the knife is under cover while the cut is performed (e.g., the blade is covered by hair or wool).¹¹

When performed properly, shechitah appears all but painless and achieves “practically instantaneous unconsciousness.”¹² In fact, the whole purpose of shechitah – which is a more expensive and difficult method of slaughter – is to avoid unnecessary pain to the animal.¹³

III. SPECIFIC INCIDENTS OF VIOLATIONS OF THE HUMANE METHODS OF LIVESTOCK SLAUGHTER ACT

The following sections recount the incidents in the enclosed video titled “Agriprocessors, Inc., Postville, Iowa” The edited video is not an exhaustive catalog of every incident witnessed and documented during the course of the investigation; rather, it should be viewed as a condensed, representative summary of routine conduct involving violations of the HMSA.

The PETA investigator was assigned by Agriprocessors to work in two separate departments at the facility in which animal carcasses are processed. The enclosed video footage was taken on 5 days during which the investigator was able to be absent from his assigned department and enter and observe the procedures in the kill room. On each of these 5 days – spanning a period of 42 days -- the same violations, discussed fully below, recurred with regularity.

The standard procedures for shechitah and the related handling of the animals at Agriprocessors are documented on the video. Each scene depicts an animal as he is restrained in the facoima pen, a device which rotates the animal’s body 180 degrees prior to slaughter so that the animal is upside down when the knife is applied.¹⁴ The shochet slits the animal’s throat. A second employee of Agriprocessors then immediately uses a knife to enlarge the cut and reaches inside the neck of the animal with a hook in order to pull one end of the trachea and esophagus free from the surrounding tissue. The free ends of the trachea and esophagus are then pulled outside the animal’s body where they are left to

¹¹ Yacov Libshutz, *Kashruth: A Comprehensive Background and Reference Guide to the Principles of Kashruth* 20-21 (Mesorah Publications 2001) (1988).

¹² *Humane Slaughtering of Livestock and Poultry: Hearings on S. 1636 Before the Senate Subcommittee on Agriculture and Forestry, supra* n. 7, at 144.

¹³ *Id.* at 141.

¹⁴ The American Meat Institute recommends that all ritual slaughter be performed on animals in the upright position. The American Meat Institute, *AMI Fact Sheet: Religious Slaughter* (Feb. 2004); see also, Temple Grandin, Ph.D., P.A.S., Associate Professor of Animal Science, Colorado State University, *Recommended Ritual Slaughter Practices, at <http://www.grandin.com/ritual/rec.ritual.slaughter.html>* (“For both humane and safety reasons, plants which conduct ritual slaughter should install modern upright restraining equipment.”). In fact, Agriprocessors is the only such facility in the U.S. which still uses this outdated -- and inhumane -- device. USDA, Foreign Agriculture Service, GAIN Report #IS1007: *Israeli Requirements for Recognition of Kosher Slaughter in the U.S.* (July 10, 2001).

dangle. Next, the animal is rotated to the upright position in the facoima pen and dumped onto the cement floor below. Eventually, a shackle is attached to a single rear leg of the animal who is then hung on the “bleed rail” and conveyed to another room where he is decapitated and skinned prior to further processing. Many of the animals in the video are still conscious when they leave the kill room on the bleed rail, just prior to decapitation.

At Agriprocessors, the cut is performed by shoctim who are employed by the company for this specific task. Other employees of Agriprocessors herd the animals into the facoima pen, hook and remove the trachea and esophagus from the animal’s neck, and shackle and hoist the animals in order to transport them to the next stage of processing.

A. THE SLAUGHTER METHOD EMPLOYED AT AGRIPROCESSORS VIOLATES JEWISH LAW AND THUS VIOLATES THE HMSA

Neither the procedure for kosher slaughter that is in place at Agriprocessors nor the manner of the execution of this procedure is permitted, much less required, by Jewish law. Thus, the method of slaughter at this facility falls outside the scope of the behavior authorized by Section 1902(b) of the HMSA.

Section 1902(a) of the HMSA recognizes as humane any method of slaughter and handling in which the animal is “rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective *before* being shackled, hoisted, thrown, cast, or cut.” (Emphasis added.) Section 1902(b) authorizes an additional method of slaughter not otherwise recognized as humane but only when the method, as specified in Section 1902(b), is performed in accordance with the ritual requirements of the Jewish faith or any other religious faith.¹⁵

As the unedited video evidences, each steer who is slaughtered at Agriprocessors is subjected to a procedure immediately after his throat is slit in which an additional cut is made and the trachea and esophagus are torn free from the body tissue. This is a standard operating procedure at Agriprocessors; few animals escape this practice. And, as documented in the enclosed video, often the animals are still conscious when they are subjected to this painful, and unnecessary, practice.

This “atrocious” procedure as Dr. Temple Grandin describes it, is not practiced in any other kosher slaughterhouse¹⁶ but, more importantly, has been deemed a violation of Jewish law by two of the foremost leaders in the Jewish faith, Rabbi

¹⁵ As noted above, the method of slaughter must also ensure that the “animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.” 7 U.S.C. § 1902(b).

¹⁶ Letter from Temple Grandin, Ph.D., P.A.S., Associate Professor of Animal Science, Colorado State University, to PETA (undated). Ex. E.

Shear-Yashuv Cohen, Chief Rabbi of Haifa, Israel,¹⁷ and Rabbi David Rosen, former Chief Rabbi of Ireland.¹⁸

Rabbi Cohen has viewed the edited video and concludes “the procedure of this Shekhita is definitely unacceptable by Halakhic standards ... [t]his procedure is not only cruel and therefore unacceptable by Jewish religious law ... it also cannot be certified as Kosher, as the animal must die as the direct result of the ritual cut.”¹⁹

Rabbi Rosen has viewed the edited video and condemns not only the practice by which the trachea and esophagus are pulled from the bodies of conscious animals but the manner in which animals are handled at Agriprocessors, and states “[t]he manner of the slaughtering of animals as well as animal treatment generally as shown in this video, involves flagrant violation of Jewish halachic (religious legal) requirements.”²⁰ Rabbi Rosen concludes “such behavior desecrates Jewish teaching and values and the meat of the animals abused in this way is rendered totally non-kosher as a result.”²¹

Rabbis Cohen’s and Rosen’s position is in accord with the myriad of Jewish authorities who testified before Congress, when the HMSA was proposed, to the fact that shechitah evolved precisely because “the causing of unnecessary pain to any living thing violates Jewish law” and thus the whole purpose of the ritual is to avoid unnecessary pain to the animal.²² Among the Jewish institutions that affirmed this statement were the Union of Orthodox Rabbis of the United States and Canada, the American Jewish Congress, the Synagogue Council of America, the New York Board of Rabbis, and the Kashruth Supervisors Union.²³

In addition to the illegal practice discussed above, the unacceptable number of animals who remain conscious for minutes after shechitah is performed at Agriprocessors indicates that the cut itself is performed improperly in many instances. The Orthodox Union (OU), the largest kosher certification agency in the world²⁴ and one of such agencies employed by Agriprocessors, states unequivocally that when shechita is executed properly the animal dies “in a matter of seconds.”²⁵ Dr. Grandin opines that calm cattle will collapse within 10 to 15 seconds when shechitah is performed properly.²⁶ Yet, at least 25 percent of

¹⁷ Résumé of Rabbi Shear-Yashuv Cohen, Ex. F.

¹⁸ Résumé of Rabbi David Rosen at <http://www.ajc.org/pages/RabbiDavidRosen.asp>.

¹⁹ E-mail from Rabbi Shear-Yashuv Cohen, *supra* n. 6.

²⁰ E-mail from Rabbi David Rosen, *supra* n. 6.

²¹ *Id.*

²² *Hearings on S. 1636 Before the Senate Subcommittee on Agriculture and Forestry, supra* n. 7, 141, 143.

²³ *Id.* at 139, 142 -143.

²⁴ The Orthodox Union, *Kosher Brochure*, at <http://www.oukosher.org>.

²⁵ E-mail from The Orthodox Union of Jewish Congregations to Aaron Gross, Religious Studies Department, University of California, Santa Barbara (Nov. 18, 2004). Ex. G.

²⁶ Temple Grandin, Ph.D., P.A.S., Associate Professor of Animal Science, Colorado State University and Joe M. Regenstein, Department of Food Science, Cornell University, *Religious*

the cattle on the unedited video remain conscious after the cut and after their trachea and esophagus is ripped from their bodies.

Agriprocessors employs at least one standard, inhumane procedure which not only fails to qualify as a requirement of halacha but is a violation of halacha and thus a *per se* violation of the HMSA, as well as additional procedures which although required by halacha are improperly executed, on a routine basis, and thus represent further violations of the HMSA. Moreover, the fact that the procedure by which the trachea and esophagus are removed is a clear violation of halacha yet a standard operating procedure at Agriprocessors raises the issue of intent to defraud by Agriprocessors, since it markets its meat to retailers and consumers as kosher. PETA requests that USDA address this issue in its investigation pursuant to 21 U.S.C. §§ 610(b) and 676(a).²⁷

B. THE SLAUGHTER METHOD EMPLOYED AT AGRIPROCESSORS DOES NOT ACHIEVE SIMULTANEOUS AND INSTANTANEOUS SEVERANCE OF THE CAROTID ARTERIES FOLLOWED BY LOSS OF CONSCIOUSNESS AND THUS VIOLATES THE HMSA

The HMSA mandates that each animal subjected to the kosher slaughter process experience “loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries.” As evidenced by the Food Safety and Inspection Service’s (“FSIS”) itself and by the opinion of Dr. Temple Grandin, the slaughter process exposed in the video demonstrates significant, chronic violations of this requirement.

According to the FSIS’s own directive²⁸, examples of violations of the HMSA include incidents in which:

- the animal struggles for an extended period of time;
- the animal bellows for an extended period of time;
- the animal otherwise exhibits consciousness; or
- the act of slaughter includes throat sawing, hacking, or multiple slicing of the neck with a sharp instrument.

FSIS explains that such behavior by the animal, or in the last example by the shochetim, reveals that either the cut of the carotid arteries was not instantaneous and simultaneous, or the animal has not lost consciousness by anemia of the brain and thus a violation of the HMSA has occurred.²⁹

Slaughter and Animal Welfare: a Discussion for Meat Scientists, at <http://www.grandin.com/ritual/kosher.slaugh.html>.

²⁷ 21 U.S.C. § 676(a) provides that if a violation involves an intent to defraud, the penalty is imprisonment for not more than three years or a fine of not more than \$10,000, or both.

²⁸ U.S. Department of Agriculture, Food Safety and Inspection Service, FSIS Directive 6900.2: *Humane Handling and Slaughter of Livestock, Part V* (Oct. 7, 2003).

²⁹ *Id.* Moreover, in all such instances FSIS personnel are instructed to “take steps to ensure that the animal is immediately and humanely rendered unconscious and slaughtered”; document the violation on a “Noncompliance Record”; and take regulatory “control action” which must remain in

Dr. Temple Grandin agrees, and notes that indications of consciousness include vocalization, rhythmic breathing, movement of the tongue, natural blinking, raising the head, and an attempt to right the body.³⁰

Behaviors which FSIS itself and Dr. Grandin list as indicative of violations are evident in each and every one of the 18 scenes captured by the PETA investigator and presented in the edited video. Detailed descriptions of many of the scenes in the edited video are set forth below. However, in general, the scenes depict the fact that many animals slaughtered at Agriprocessors remain conscious far too long after their throats are slit, in clear violation of the HMSA.

For example, Dr. Grandin states that many of the cattle were *fully* conscious when the trachea and esophagus were ripped from their bodies and that, moreover, the period of consciousness -- and thus the period that each animal experienced "great suffering and pain"-- was likely *prolonged* by the pain of having such a "dressing procedure" performed on a conscious animal.³¹

In addition, of the total 278 slaughters documented by the PETA investigator on the unedited video, approximately 25 percent of the cattle exhibited clear signs of consciousness for a significant period of time, i.e., more than 10 to 15 seconds after shechitah was performed.³² Many of them were still conscious when they were hung on the bleed rail, *minutes* after slaughter began.³³ In fact, the video includes a conversation in which a supervisor in another area of the facility tells the PETA investigator that he has witnessed, "several times," cattle who have escaped from the *building* after shechitah and are left to bleed to death wherever they end up.

Dr. Grandin also notes that approximately 50 percent of the cattle vocalized in the video – an indication of consciousness and a percentage which she deems

place until the facility implements the appropriate immediate and further preventive actions that ensure compliance with the HMSA. *Id.*

³⁰ Temple Grandin, Ph.D., P.A.S., Associate Professor of Animal Science, Colorado State University, *How to Determine Insensibility*, at <http://www.grandin.com/humane/insensibility.html>.

³¹ Letter from Grandin to PETA, *supra* n. 16. Dr. Grandin also speculates that the adoption of this procedure may reflect an effort by Agriprocessors to reduce the financial loss that results when a steer vomits after shechitah and thus renders the tongue treif (not kosher) – a not only cruel but futile exercise once the procedure has been exposed and then recognized as a violation of halacha. Telephone Interview with Temple Grandin, Ph.D., P.A.S., Associate Professor of Animal Science, Colorado State University (Nov. 15, 2004).

³² In another 50 percent of the cattle, either the position of the camera obstructs the view of the animal after slaughter, or the consciousness of the animal could not be determined with certainty by PETA. FSIS personnel may be able to verify additional instances in which the animals remain conscious for an unacceptable period of time.

³³ The AMI Meat Institute Foundation has adopted a position of "zero tolerance" for hanging fully sensible, unstunned animals in an inverted position on a bleed rail. Dr. Temple Grandin, *AMI Meat Institute Foundation: Good Management Practices for Animal Handling and Stunning*, p. 11 (2nd ed.).

unacceptable and which she states would be reduced to no more than 5 percent if humane practices were present at Agriprocessors.³⁴

The following are descriptions of representative scenes from the edited video which further demonstrate both the extent of the cruelty and the repetitive nature of the violations of the HMSA at Agriprocessors.

In scene #21 (August 27, 2004) the shochet slits the throat of a steer who is still conscious when his trachea and esophagus are ripped from his throat. When the animal is rotated out of the facoima pen, he falls to the floor then stands and slips and slides in the blood as he maneuvers into a corner of the room; his trachea can be seen swinging from side to side as he struggles. The animal falls – still fully conscious – and remains trapped in the corner until an employee attaches a chain to one rear leg. The animal is then hoisted and can be seen flexing his neck to raise his head as he swings into the air, indicating that he remains conscious. This steer languished for approximately 3 minutes in the kill room (and perhaps longer after he was moved outside the view of the camera) yet no attempt was made by the shochet or any other employee to end the unnecessary suffering of this animal after the botched shechitah.

As depicted in the same scene, a second steer is slaughtered while the first animal huddles, still conscious, in the corner of the room. This animal also appears to be fully conscious when he is hoisted, as evidenced by the movement in his tongue and his tail. A third animal is seen conscious immediately after his trachea and esophagus have been removed and the shochet can be seen watching this animal as he lies, gasping for breath on the cement floor. There is movement in the animal's tongue and tail immediately prior to the time he is shackled and hoisted. As this scene ends, a fourth animal bellows while he is restrained upside down in the facoima pen.

In scene #28 (September 6, 2004) yet another steer remains conscious after his throat is slit and so experiences what Dr. Grandin concludes must be “great suffering and pain”³⁵ when his trachea and esophagus are yanked from his body; he can be seen thrashing his head up and down while he remains restrained. The fully conscious animal, who is crying out, is dumped on the floor and can be seen writhing and kicking his legs in an attempt to right himself. The animal vocalizes throughout the ordeal and remains conscious throughout the scene.

In scene #30 (September 12, 2004) an animal is restrained in the facoima pen and can be heard bellowing as he is flipped upside down. After shechitah, the animal jerks in distress as he attempts to free himself from the facoima pen that has malfunctioned. When he is finally dumped to the floor he continually

³⁴ Letter from Grandin to PETA, *supra* n. 16; see also, AMI Meat Institute Foundation, *Good Management Practices for Animal Handling and Stunning*, *supra* note 33, adopting Dr. Grandin's recommended vocalization percentage of 5 percent or less.

³⁵ Letter from Grandin to PETA, *supra* n. 16.

struggles to gain his footing, to no avail, before he is shackled and hoisted a full minute after shechitah.

In scenes #40 and #24 (September 12 and 6, 2004) each of two steers thrash violently on the floor after shechitah in an attempt to stand. Animals can be heard vocalizing in the background. The two steers remain conscious until they are shackled and hoisted almost two minutes after slaughter. The steer in scene #40 is clearly conscious when he is lifted from the floor and his head is slammed against the cement wall, as evidenced by the fact that his head is held upright.

In scene #26 (September 6, 2004) yet another steer struggles to stand after he is released from the facoima pen. More than one minute after the initial cut, he remains conscious on the floor. The employee is unable to shackle the animal and so a second steer is dumped to the floor and bellows as he is shackled and swung to the bleed rail. In the background (as the second steer is dumped to the floor) there is a brief view of the adjoining room where the slaughtered steers hang from the bleed rail, and a steer can be seen in the far distance as his free rear leg thrashes in the air.

In scene #32 (September 12, 2004) an animal is dumped from the facoima pen. On first glance, the animal appears to be unconscious. However, in the subsequent 3 minutes the animal can be seen attempting to right himself on the floor. In the background, a steer who hangs from the bleed rail repeatedly kicks his free leg and moves his tail.

In scene #43 (September 12, 2004) a steer is dumped from the facoima pen. The animal slips in the blood on the cement floor as he attempts to right himself. An employee repeatedly kicks the animal in an apparent effort to gauge the safety of approaching the animal to attach the shackle. The animal bellows as he is shackled and hoisted. In the background there is a brief view of an animal whose free rear leg kicks as he hangs from the bleed rail in the next room.

In scene #33 (September 12, 2004), once again, two cattle must endure the pain and suffering associated with an ineffective cut, removal of their trachea and esophagus, and prolonged consciousness. The first steer bellows as he hits the cement floor after release from the facoima pen. He is conscious as he is hoisted to the bleed rail, as evidence by the fact that he repeatedly flexes his neck muscles in an attempt to raise his head. The second steer is clearly conscious after he is released from the facoima pen, as he can be heard bellowing as he attempts to stand.

The remaining scenes on the enclosed video, along with numerous additional scenes memorialized in the unedited video offer, again and again, views of animals who remain conscious long after the initial cut of shechitah and suffer through, and beyond, a procedure – the removal of the trachea and esophagus – which has been condemned by both scholars and religious leaders.

IV. CONCLUSION

The PETA investigation not only disproves the pronouncement by Agriprocessors that “neither Jewish law nor ‘common decency’ is being violated in the Agriprocessors plant”³⁶ but, more importantly, proves persistent violations of federal law. The egregious, repetitive nature of the violations of the HMSA carried out by Agriprocessors and its employees are self-evident in the video and cannot be interpreted as other than inhumane and intentional. The violations evince an overt and callous indifference to both the provision in the HMSA which authorizes kosher slaughter in the first place and, ironically, to the requirements of Jewish law itself, as well as to a primary purpose of the HMSA -- the prevention of needless suffering by millions of animals who are slaughtered for human consumption each year.

Clearly, the cruel procedures repeated on a daily basis at Agriprocessors are not representative of the types of behaviors Congress intended to endorse when it enacted Section 1902(b) of the HMSA. PETA respectfully requests that FSIS suspend inspection service provided to Agriprocessors *immediately*, institute proceedings to withdraw the grant of federal inspection, and charge all culpable parties with multiple violations of the HMSA.

Please do not hesitate to contact me at 757-962-8329 if you would like to discuss the content of this complaint or if you need additional information. Thank you for your prompt attention to this matter.

Sincerely,



Lori E. Kettler
Counsel

Research & Investigations Dept.

cc: William C. Smith
Assistant Administrator, Office of Field Operations
Food Safety and Inspection Service, USDA

³⁶ Letter from Nathan Lewin, *supra* n. 5.