

September 19, 2006

The Honorable David Gibbons  
Franklin County Prosecutor  
211 W. Commercial Dr.  
Ozark, AR 72949

RE: Cruelty to Animals at ConAgra Foods:  
Request for Prosecutorial Action

Dear Mr. Gibbons:

I am writing to direct your attention to recent conduct in Ozark, Arkansas, witnessed and documented by investigators for People for the Ethical Treatment of Animals (PETA), which constitutes violations of Ark. Code Ann. § 5-62-101, Cruelty to Animals, and § 5-62-119, Animal Transportation Cruelty.

The conduct at issue occurred between April 5, 2006, and July 28, 2006, at a Butterball poultry slaughterhouse owned and operated by ConAgra Foods and located at 307 Dogden, Ozark, Arkansas. Employees of ConAgra were permitted to engage in routine and deliberate cruelty to animals, such as decapitating birds, sitting on birds, slamming birds into shackles, “boxing” the birds as they hung in the shackles, punching and kicking birds, using birds as “weights” to do “bicep curls,” swinging birds like baseball bats into handrails, throwing carcasses at live birds as they hung in the shackles, and maliciously breaking the limbs of birds.

Independent, nationally renowned experts in the field of animal husbandry, whose statements are attached, unequivocally declare that the conduct documented herein falls far below the parameters of usual and accepted industry standards and, moreover, is knowingly abusive and cruel. As one expert in avian medicine summarizes, the conduct evidences “clear incidents of cruelty to animals” and “a workplace culture of complete lack of regard for animal welfare.”<sup>1</sup>

Enclosed are declarations provided by the two PETA investigators and edited video footage that contain examples of violations of Arkansas law. The unedited video footage is available on request, and the PETA investigators are available to assist your office upon request and at your convenience.

The complaint against the actions of employees at the Butterball slaughterhouse and ConAgra Foods is detailed below.

## **I. Arkansas Law**

Ark. Code Ann. § 5-62-101 prohibits cruelty to animals and states:

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<sup>1</sup>Letter from Laurie Siperstein-Cook, D.V.M., avian veterinarian, Davis, California (Aug. 27, 2006), Attach. A.



# **PETA**

**PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS**

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AN INTERNATIONAL  
ORGANIZATION DEDICATED  
TO PROTECTING

(a) A person commits the offense of cruelty to animals if, except as authorized by law, he or she knowingly:

(1) Abandons any animal;

(2) Subjects any animal to cruel mistreatment;

(3) Subjects any animal in his or her custody to cruel neglect; or

(4) Kills or injures any animal belonging to another without legal privilege or consent of the owner ....

Cruelty is defined to “include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.” Ark. Code Ann. § 5-62-110(a)(2). Cruelty to animals is a Class A misdemeanor. Ark. Code Ann. § 5-62-101(b).

Ark. Code Ann. § 5-62-119 prohibits cruelty to animals in transport and states:

If any person shall carry or cause to be carried in or upon any vehicle, boat, or otherwise any creature in a cruel or inhuman manner, he shall be guilty of a misdemeanor ....

## **II. Employees of ConAgra Routinely Abuse Live Turkeys**

The PETA investigators have documented a work environment in the Butterball slaughterhouse in which employees of ConAgra are given free reign to handle live turkeys in any manner that they choose—and they have knowingly chosen to engage in abusive and cruel behaviors. In fact, one employee advised a PETA investigator, “When they [live turkeys] start doing that, when they struggle, hit them up against the shackle, or hit them up against the trailer.” Xxxx Decl. ¶10(f). Another employee declared that it is “fun to kill ’em” and then punched a turkey in the face to make his point. Xxxx Decl. ¶12(h).

The following is an account of the types of routine abuses witnessed by the PETA investigators, supported by narrative of specific incidents. Please note that additional incidents of abuse are set forth in the declarations of the PETA investigators, which also include dates and additional details. Many of the abuses outlined below were repeated on a daily, if not hourly, basis.

### **A. Live Turkeys Are Improperly and Cruelly Shackled**

In general, live-hangers in this facility routinely attempt to shackle the turkeys using only one hand, which results in birds’ being hung painfully by a single leg or the toes or plummeting to the cement floor. Many of the live-hangers also slam the birds into the shackles with inappropriate and needless force, often making a “game” of it. When these workers miss the shackles—as they often do—the birds collide with the cement wall behind the production line and then with the cement floor. Both PETA investigators witnessed this conduct hour after hour and day after day. *See generally* Xxxx Decl. ¶12(d); **Video Incident #11**. Dr. Laurie Siperstein-

Cook, an expert in avian medicine, opines, “[T]his kind of treatment is ... inconsistent with a basic regard for animal welfare.”<sup>2</sup>

The turkeys also are subjected to a variety of abuses, which can only be described as vicious, as they await their fates in the shackles. In fact, Dr. Siperstein-Cook describes the behaviors depicted in the video as “simply sadistic.”<sup>3</sup> Dr. Temple Grandin, a consultant to the U.S. Department of Agriculture, the American Meat Institute, and members of the farmed-animal industry, such as the McDonald’s Corporation, Burger King, and Smithfield Foods, characterizes the behavior documented at the slaughterhouse as “abusive” and evidence of “severe animal welfare problems.”<sup>4</sup> Donald M. Broom, professor of animal welfare in the Department of Veterinary Medicine at the University of Cambridge and an advisor to the British government, concludes that the behaviors constitute deliberate abuse of turkeys that “would be grounds for a successful prosecution for cruelty to animals in most countries.”<sup>5</sup> Examples of the abuse are set forth below:

- Live-hangers Xxxx, Xxxx, Xxxx, Xxxx, Xxxx, and Xxxx often slammed birds against the shackles when they were frustrated. xxxx instructed the PETA investigator, “When they [live turkeys] start doing that, when they struggle, hit them up against the shackle, or hit them up against the trailer.” Xxxx Decl. ¶10(f), Xxxx Decl. ¶12(a), and **Video Incident # 12**.
- Like his colleagues named above, live-hanger Xxxx was observed as he swung a bird over his head and slammed her into the shackles as hard as he could. The bird went limp and then was shackled. Xxxx Decl. ¶12(s).
- Live-hanger Xxxx attempted to throw a turkey into a shackle *on the opposite side of the hanging dock*—more than 15 feet away. He missed, of course, and the bird struck the concrete. Xxxx Decl. ¶12(c).
- Live-hanger Xxxx demonstrated the “correct” method of shackling a turkey, which, according to him, is to hurl the bird into the shackles with as much force as is possible. He demonstrated this method four times *on the same animal*. Xxxx Decl. ¶12(n).
- Live-hanger Xxxx confessed to intentionally breaking the back of a “run-away” bird before placing her in the shackles and then breaking both of her legs as well. As Xxxx recounted the story, he appeared to take pleasure in the pain that he had caused this bird, imitating the way in which she twitched and jerked as a result of the abuse. Xxxx Decl. ¶10(d).
- Live-hanger Xxxx bragged about how he could paralyze a turkey by “punching it in the back of the head, just below the neck” and then demonstrated the technique to the PETA investigator. Xxxx Decl. ¶12(k). Apparently, this is a shared form of “amusement,” because live-hanger Xxxx was also observed engaging in similar abuse. Xxxx Decl. ¶10(b) and **Video Incident # 1**.
- Live-hanger Xxxx twisted the neck of a turkey—in the manner in which one would wring a wet towel—as she hung from the shackles. The bird twitched and jerked as she was conveyed down the line. Xxxx Decl. ¶12(ww).

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<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>Letter from Temple Grandin, Ph.D., P.A.S., American Registry of Professional Animal Scientists, to Noam Mohr, PETA (Aug. 23, 2006), Attach. B.

<sup>5</sup>Statement of Donald Maurice Broom, professor, Department of Veterinary Medicine, University of Cambridge (Aug. 22, 2006), Attach. C.

- Live-hanger Xxxx shackled a bird, and seconds later, when the PETA investigator turned to observe Xxxx again, the bird had been decapitated. Xxxx Decl. ¶12(cc).
- Live-hanger Xxxx performed “tricks” as he shackled birds, spinning in circles on his heel before slamming the birds into the shackles. Xxxx Decl. ¶12(t). Xxxx also abused several birds in front of the PETA investigator in order to practice a technique that he uses—in one continuous motion, he used a single hand to pull a turkey from the coop by both feet and sling the animal out and into the shackles, with the momentum causing the bird to hit the shackles with immense force. When he missed the shackles, the birds smashed onto the cement floor. These “demonstration” birds were returned to the coops, and the practice session began anew. Xxxx Decl. ¶12(ll).
- Live-hanger Xxxx pulled birds from the coops by their legs and then quickly dropped them to just above knee level at the same time that he raised his knee, stunning the animals before they were shackled. Xxxx Decl. ¶12(dd).
- Live-hanger Xxxx used birds as punching bags while they hung in the shackles. Xxxx Decl. ¶10(u).
- Live-hanger Xxxx shackled a turkey and then used his fist to repeatedly beat her in the head. Xxxx Decl. ¶12(ddd).
- Live-hanger Xxxx kicked birds and/or punched birds as they hung from the shackles. Xxxx Decl. ¶10(f) and **Video Incidents # 5, # 6**.
- Live-hanger Xxxx kicked “run-away” turkeys as they attempted to flee the platform, at the same time kicking turkeys who had already been shackled as the line passed him. Xxxx Decl. ¶12(eee). Live-hangers Xxxx and Xxxx were also observed sadistically kicking turkeys—sometimes in the head—as they hung from the shackles. Xxxx Decl. ¶12(q) and Xxxx Decl. ¶10(r).
- Live-hanger Xxxx punched a bird after she struck him in the testicles and then hung her and instructed live-hanger Xxxx to kick the bird, which he did. Xxxx Decl. ¶10(w) and **Video Incidents # 5, # 6**.
- Live-hanger Xxxx shackled birds in an area where the shackles are only a few inches above the concrete and descend over a set of steps, so that when the line began to move, the birds were dragged across the concrete and then their heads and chests dropped and hit the concrete. Xxxx Decl. ¶12(yy).
- Live-hanger Xxxx repeatedly inserted his index finger into a turkey’s cloaca as she hung in the shackles. Xxxx Decl. ¶12(j).
- Live-hanger Xxxx shackled both the leg and the head of a turkey in one of the leg shackles and then pretended to “hump” the bird. Xxxx Decl. ¶10(aa) and **Video Incident # 3**. Dr. Siperstein-Cook concludes that placing the head of a turkey into a shackle designed for the leg is “a senseless act that causes great pain to the animal.”<sup>6</sup>
- After a bird defecated on the head of live-hanger Xxxx, he shackled the bird by the feet and then forced her head into the shackle too. Xxxx Decl. ¶10(c).
- Live-hanger Xxxx was filmed as he hung turkeys in an unnecessarily rough manner. **Video Incident # 10**.
- Birds whose legs were so swollen that they could barely fit into the shackles were forcibly shackled anyway. Xxxx Decl. ¶12(ee).

## **B. Live Turkeys Are Beaten, Punched, and Otherwise Abused**

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<sup>6</sup>Siperstein-Cook, *supra* note 1.

Other examples of abuse are set forth below:

- Live-hanger Xxxx confessed that he kills three or four turkeys a day, declaring that it is “fun to kill ’em.” Xxxx Decl. ¶12(h). As described below, the PETA investigators observed Xxxx “in action” on many occasions. For example, on one occasion, Xxxx swung a turkey like a baseball bat against a metal bar on a trailer and then looked at the PETA investigator and laughed. Xxxx then warned the PETA investigator, “Don’t do that stuff around Xxxx [another live-hanger]. He frowns upon that sort of stuff. Everybody else though—whatever, whenever.” Xxxx Decl. ¶12(v). On another occasion, Xxxx swung a turkey against the handrail on a set of steps. The bird, whose bloody spine was exposed by the blow, was shackled and conveyed on the line. Xxxx Decl. ¶12(w). Also, Xxxx was filmed as he smashed a turkey against a truck and punched a second turkey. **Video Incident # 2.**
- Clearly one of the worst abusers, Xxxx pulled a turkey from a coop, held her upside-down so that her head rested on the concrete floor, and then stomped on her head, which exploded under the weight of his foot. Xxxx wiped the blood from his leg and joked, “Gotta get rid of the evidence.” Xxxx Decl. ¶12(z). Xxxx confessed that he often “smashes the birds’ heads in,” and in a similar incident, Xxxx was observed as he crushed a turkey’s neck with his foot. Xxxx Decl. ¶10(o).
- Xxxx approached a bird whose head protruded from the coop, smiled at the PETA investigator, and then placed the bird’s head between his hands and yanked her head back in order to break her neck. Xxxx then laughed and walked away. Xxxx Decl. ¶12(r).
- Xxxx was also observed as he punched a bird twice in the head with such force that she was knocked from the coop to the cement floor, where she flapped uncontrollably. This bird was then shackled. Xxxx Decl. ¶12(bb). In a similar incident, Xxxx confessed that he struck a bird in the head so hard that it caused her to spin inside the coop. Xxxx watched the bird struggle and then removed her from the coop and shackled her. Xxxx Decl. ¶12(jj).
- Xxxx was also observed as he grabbed a turkey by the legs and swung her head and chest into the shackles with such force that she went limp. Xxxx Decl. ¶12(x).
- Live-hanger Xxxx repeatedly slammed the metal gate of a coop on a turkey’s neck, turning to the PETA investigator and laughing. Xxxx Decl. ¶12(nn).
- Xxxx also held a turkey’s legs in one hand, swung her upward, and then used his free fist to punch her back down. When the bird appeared to be lifeless, she was shackled. Xxxx Decl. ¶12(tt).
- Live-hangers Xxxx and Xxxx climbed on top of the transport truck and grabbed the head of a turkey that was protruding from a coop. They twisted the turkey’s neck, and as xxx pulled on the neck, Xxxx pulled and punched the neck in an effort to decapitate the bird. When they let go, the bird sunk into the coop, shaking. Xxxx Decl. ¶8.
- Live-hanger Xxxx repeatedly twisted a turkey’s neck, causing the turkey to stagger after each incident. When the turkey attempted to fly from the coop, Xxxx kicked the bird to the back of the coop. Xxxx Decl. ¶12(kk).
- Live-hanger Xxxx confessed that he often pulls the feet of a turkey from the coop, leaving the head inside the coop, and then forcefully drops his elbow onto the turkey’s neck, declaring, “That makes ’em mad.” Xxxx Decl. ¶12(i).
- Live-hangers Xxxx, Xxxx, Xxxx, Xxxx, and Xxxx threw carcasses—of either the victims of their abuse or animals who had died as a result of heat exhaustion—at live birds as they hung in the shackles. The 10- to 15-pound carcasses were tossed across the dock at the live birds,

and the investigator reports that when the birds were hit, they often appeared dazed by the impact. The PETA investigator saw this happen on a daily basis. Xxxx Decl. ¶12(c).

- Live-hangers Xxxx, Xxxx, and Xxxx played “catch” with live turkeys, tossing them approximately 20 feet through the air. One of the birds landed on the concrete floor. A second bird collided with a ceiling fan and then fell to the concrete floor. Xxxx Decl. ¶12(rr). In similar incidents, live-hanger Xxxx threw a turkey over the top of the truck at another live-hanger; live-hanger Xxxx threw a turkey at live-hanger Xxxx on the roof of the truck, who then punched the bird (**Video Incident #8**) and live-hanger Xxxx grabbed a turkey by her neck and threw her to the uppermost tier of the hanging dock. Xxxx Decl. ¶10(p) and Xxxx Decl. ¶12(vv).
- The PETA investigator noticed a bird in the shackles who had been mutilated—her leg was missing and fresh blood was evident. Live-hanger Xxxx noticed the PETA investigator’s concern and laughed. When the PETA investigator turned toward Xxxx and saw the coop that Xxxx was unloading, he could also see the animal’s severed leg stuck under a bar between the coop where Xxxx was working and an adjacent coop. Xxxx Decl. ¶12(xx).
- A turkey whose wing was stuck between the floor of the coop above and the metal bar that supports the coop was ripped from the coop by live-hanger Xxxx. The wing was dislocated. The bird was then shackled. Xxxx Decl. ¶12(yy).
- Live-hanger Xxxx repeatedly kicked birds and smashed them against a truck. Xxxx Decl. ¶10(m). **Video Incident #4**. Similarly, live-hanger Xxxx often kicked birds who had escaped from the coops. On one occasion, Xxxx repeatedly kicked two birds in the head and then repeatedly kicked a third bird in the face and once in the side, knocking the turkey against the wall. Xxxx Decl. ¶12(mm). The bird was then shackled.
- Live-hanger Xxxx strangled a turkey as he waited to hang the bird in the shackles, watching as she died. Xxxx Decl. ¶12(g). The bird was then shackled.
- Live-hangers Xxxx, Xxxx, and Xxxx removed turkeys from a coop and threw them into a puddle of water in an attempt to make the turkeys splash water on the other live-hangers. Xxxx, Xxxx, and Xxxx stomped on the turkeys in order to make them splash more or, alternatively, killed them to stop the splashing. Xxxx Decl. ¶10(cc).
- Live-hanger Xxxx removed two turkeys from a coop and used them to do bicep curls. Xxxx Decl. ¶12(o).
- Live-hanger Xxxx confessed to kicking a bird in the back of the head and breaking her neck in anger after the bird’s wing hit him in the face. Xxxx Decl. ¶12(pp).
- Live-hanger Xxxx grabbed a turkey by the neck, twisted her neck, and then pulled her from the ground, at which time the bird stopped moving. Xxxx Decl. ¶12(y).
- Live-hanger Xxxx picked up and strangled a turkey who crossed his path as he headed toward the break room. When the bird stopped moving, he placed her in the shackles. Xxxx Decl. ¶12(xx).
- Live-hanger Xxxx repeatedly kicked birds who had escaped from the coops and smashed birds against the trucks. Xxxx Decl. ¶12(yy) and Xxxx Decl. ¶10(ee).
- Live-hanger Xxxx walked up behind a turkey who was standing at the edge of a coop and brought his fist down on top of her head. The bird fell to the ground, flapping, and Xxxx shackled her. Xxxx Decl. ¶12(bbb).
- Live-hanger Xxxx slammed birds’ heads against a staircase railing as he waited to shackle them. Xxxx Decl. ¶10(h).

- Live-hanger Xxxx kicked a bird and then handed her to live-hanger Xxxx, who sat on the bird until she was shackled at a later time. Xxxx Decl. ¶10(j) and **Video Incident # 7**. Dr. Temple Grandin concludes that Xxxx’s conduct caused “great suffering” for the bird, and Donald Broom concurs.<sup>7</sup> Xxxx was filmed as he confessed to the PETA investigator that he “kicked the fuck out of the motherfucker [a turkey].” The PETA investigator observed the bird and then commented to Xxxx that the turkey’s eye had popped out. **Video Incident # 13**. Xxxx also confessed that he hit a turkey in the head. **Video Incident # 14**.
- Live-hanger Xxxx placed a turkey between his legs and “rode” the animal as if she were a pony. Xxxx Decl. ¶10(l).
- Live-hanger Xxxx smacked turkeys against the truck and/or punched them in the heads. Xxxx Decl. ¶10(b) and **Video Incident # 1**.
- Live-hanger Xxxx grabbed by the neck a turkey who had wandered into the lot outside the dock and then carried her in this manner back to the hanging dock. Xxxx Decl. ¶12(vv). Live-hanger Xxxx was filmed as he threw a turkey into the shackles but missed and then picked the turkey up by the neck to shackle her. **Video Incident # 9**. Dr. Siperstein-Cook notes that grabbing a bird by the neck and yanking her into the air is “inconsistent with a basic regard for animal welfare.”<sup>8</sup>
- The back-up killer left his post for approximately five minutes and entered the area where the birds are shackled. Birds continued to be hung and the line continued to move, yet there was no other person serving as back-up killer to ensure that birds did not enter the scalding tank alive. Xxxx Decl. ¶12(hh).
- Truck driver Xxxx observed two live turkeys in front of her truck, yet proceeded to move forward, crushing the turkeys to death. Xxxx Decl. ¶12(p).
- The PETA investigators often observed severed turkey heads, which appeared to be from animals who had been maliciously decapitated as they hung from the shackles. Xxxx Decl. ¶12(f).

The experts agree that the conduct documented in the video, which is representative of the conduct witnessed by the PETA investigators on a daily basis, does not comport with accepted industry standards and is unjustified and cruel.<sup>9</sup> As Professor Lesley J. Rogers summarizes, “[I]t is clear that these birds are being handled inhumanely ... [and] killed in a way that means they take a long time to die.”<sup>10</sup>

### **III. ConAgra Fails to Ensure That Live Turkeys Are Treated Humanely**

The Arkansas Code defines cruelty to animals to “include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.” Ark. Code Ann. § 5-62-110(a)(2) (emphasis added).<sup>11</sup> ConAgra must be held accountable for the abuse that it

<sup>7</sup>Grandin, *supra* note 4; Broom, *supra* note 5.

<sup>8</sup>Siperstein-Cook, *supra* note 1.

<sup>9</sup>*See, e.g.*, letter from Lotta Berg, associate professor in animal hygiene, Swedish University of Agricultural Sciences, and member of the Working Group on Poultry Welfare of the World Poultry Science Association (Sept. 5, 2006) (stating that the behaviors shown on the video are “unacceptable and abusive”), Attach D.

<sup>10</sup>E-mail from Professor Lesley J. Rogers, Centre for Neuroscience and Animal Behavior, University of New England, Australia (Aug. 28, 2006), Attach. E.

<sup>11</sup>Ark. Code Ann. § 5-62-110 defines “person” to include corporations.

allows at this slaughterhouse through an absolute dearth of training and supervision of its employees as well as a failure to adopt acceptable standard operating procedures.

ConAgra has created and condones a work environment in which the extent of abuse perpetrated upon the animals in its charge is without limit, ranging from violent beatings to assaults of a sexual nature, and in which standard operating procedures encourage and permit cruelty. The nation's foremost expert on animal welfare in slaughterhouses, Dr. Temple Grandin, concludes, "The management of this plant is obviously not training and supervising [its] employees, [and] this plant has both severe animal welfare problems and a lack of management that needs correcting."<sup>12</sup> Dr. Siperstein-Cook concurs, stating, "Either the plant has failed to train these workers in proper handling, or it allows such training to be completely ignored. . . . A respectable facility would not tolerate a workplace culture of complete lack of regard for animal welfare, as this one does."<sup>13</sup>

The abuse documented by the PETA investigators occurs—unchecked—because of ConAgra's failure to implement simple, basic procedures that would prevent such cruelty. First, ConAgra provides no training in animal welfare and humane handling to its employees and then compounds this inaction with more inaction—employees' conduct is unmonitored by management, and employees are left to vent their frustrations and alleviate boredom by inflicting gratuitous cruelty on the live turkeys within their reach.

ConAgra provides little oral and written instruction about the humane treatment of animals to its employees. The little oral instruction that *is* provided is no more than an attack on the animal rights movement, with no attention given to the prohibitions of state law and certainly no emphasis placed on the welfare of the animals who are slaughtered in the facility. The pervasive attitude of management, as expressed by a supervisor named Xxxx, seems to be that animal welfare is an inconvenience that ConAgra must pretend to care about because "[A]nimals have more rights than people do nowadays." Xxxx Decl. ¶6. This attitude is illustrated in the list of abuses documented by the PETA investigators.

Both PETA investigators attended an orientation session when they arrived at the facility. Although new employees are required to sign a form in which they agree that they will not abuse animals, the form contains few specific prohibitions and is no more than a "paper tiger." Xxxx Decl. ¶6 and Xxxx Decl. ¶6. Contrary to the procedures for all other forms or handbooks that new employees at ConAgra are required to review and sign (e.g., the Team Member Handbook, the Bloodborne Pathogens Safety Training Handout, and the Safety Handout), management does not discuss the contents of the form that relates to the abuse of animals with new employees, and employees who cannot read or who cannot read well are not provided assistance with the form, yet they are still required to sign it. Xxxx Decl. ¶6. In fact, the PETA investigators reported that new employees merely signed the form without reading it, as ConAgra management looked on. Xxxx Decl. ¶6. In more evidence of a lack of serious attention to animal welfare, employees are rated periodically on this issue, but the supervisors merely check off compliance, never making

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<sup>12</sup>Grandin, *supra* note 4.

<sup>13</sup>Siperstein-Cook, *supra* note 1.

any effort to verify that animals have, in fact, been treated humanely by, for example, observing the conduct on the hanging dock with any frequency. Xxxx Decl. ¶6 and Xxxx Decl. ¶6<sup>14</sup>

In fact, the PETA investigators report that, to their knowledge, neither their supervisor, Xxxx, nor any other member of management at ConAgra ever intervened to end the gratuitous violence committed against the birds on a daily basis, and the live-hangers weren't ever reprimanded in any way for their improper handling or killing of the turkeys. Xxxx Decl. ¶13 and Xxxx Decl. ¶11. Rather, *the PETA investigators reported that when supervisors do enter the hang dock, the abuse goes on as usual.* Xxxx Decl. ¶13 and Xxxx Decl. ¶11. In one instance, members of senior management visited the slaughterhouse, and even though they were present when one of the employees was hanging birds with one hand, causing at least one bird to fall to the cement floor, the employee's conduct was apparently not corrected. Xxxx Decl. ¶11.

In one of the most blatant violations of the cruelty-to-animals statute, ConAgra has no procedure in place to retrieve the numerous birds who fall to the ground and flee under the trucks as they are unloaded and who are subsequently crushed to death as the trucks exit the facility. Rather, employees are *prohibited by management* from retrieving these birds, and the truck drivers are expected to run over the birds, apparently in order to avoid any disruption of their work. Xxxx Decl. ¶4 and Xxxx Decl. ¶9. Both PETA investigators observed turkeys as they unnecessarily suffered this cruel fate. Xxxx Decl. ¶12(p) and Xxxx Decl. ¶9. For example, one day, at least six birds were killed in this manner, and in one instance, the truck driver moved the vehicle forward and backward repeatedly over a bird when the truck lost traction as the truck driver attempted to run over the animal. Xxxx Decl. ¶12(ss). Remarkably, at the orientation session, supervisor Xxxx casually warned the new employees (including one PETA investigator) that they might hear a loud popping sound while at work on the hanging dock and then explained, "That's just a turkey that got stuck under the wheels of the truck. They get out of the coop and get stuck down there. Eventually, there's nowhere else for the air inside them to go, so they just pop." Xxxx Decl. ¶7. Such a disregard for the laws that are intended to protect animals from cruelty cannot go unpunished.<sup>15</sup>

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<sup>14</sup>Moreover, ConAgra management personnel are flippant in their approach to animal welfare, making comments to new employees in orientation such as the comment referenced above: "[A]nimals have more rights than people nowadays." Xxxx Decl. ¶6. When asked by a new employee why it matters how the birds are handled since they will be killed anyway, supervisor Xxxxxxxx replied, "[Because] the animal rights activists will get after us." Xxxx Decl. ¶5. Xxxx further commented, "[W]e have to be careful about how we treat the turkeys because of the animal rights activists. They don't like it when you kick a turkey." Xxxx Decl. ¶5. It appears that ConAgra instills in its supervisors a concern only about the public relations nightmare that can result from a private undercover investigation of its abuse of animals and nothing about compliance with the laws that have been enacted to protect animals. It is the duty of the State to recognize this indifference that results in violations of the law and to take strong enforcement action, both to end the torture of birds at ConAgra and to deter similar abuse in other slaughterhouses.

<sup>15</sup>ConAgra management training personnel also admitted that birds are often scalded to death. Xxxx Decl. ¶ 5. As noted above, a PETA investigator witnessed a back-up killer abandon his station for approximately five minutes, during which time birds continued to enter the scalding tank. At the time, the line speed was about 86 birds per minute, so approximately 425 birds entered the scalding tank without any safeguard against the most painful of deaths. Xxxx Decl. ¶12(hh). This is another example of how ConAgra has failed to impress upon its employees the importance of animal welfare or to provide the oversight necessary to ensure that animals are treated humanely and in accordance with all applicable laws.

An additional problem is the rapid speed of the line, documented on the enclosed video, which appears to frustrate the live-hangers at times and thus encourages the inhumane conduct described herein. **Video Incident # 15**. In addition, ConAgra often hires temporary workers who, because of their inexperience, cannot work at the required pace—as a result, the permanent employees are forced to work more quickly, meaning that more birds are handled in an inappropriate, inhumane manner. Xxxx Decl. ¶12(fff). Professor Donald M. Broom observes that the rapid speed of the line, as shown in the video, results in rough handling and, thus, unjustified pain for the birds.<sup>16</sup> This is a problem that can be easily remedied, yet ConAgra has chosen to ignore the consequences suffered by the birds because of its inaction.

The physical conditions of birds when they arrive at the facility are evidence of additional inhumane treatment. On information and belief, ConAgra owns the turkeys at all times and merely contracts with farmers to raise the birds, so ConAgra is responsible for the treatment and physical condition of the birds at all times. Many of the birds are unable to stand when they arrive at the facility, and many of them have broken limbs. Xxxx Decl. ¶9 and Xxxx Decl. ¶5. This is, at a minimum, evidence of neglect, but is more likely the result of improper handling during the catching, loading, and transport stages. The PETA investigators also observed birds with red, swollen eyes, presumably the result of exposure to high concentrations of ammonia. Xxxx Decl. ¶13.

Stress and deaths from heat exhaustion during transport and while the birds waited to be unloaded were common (the PETA investigator was told that on one day in the summer of 2005, an entire truckload of birds died from heat exhaustion). Xxxx Decl. ¶8 and Xxxx Decl. ¶5. At times, turkeys were packed onto the trucks—as many as 15 to 25 animals per coop—and sat in the parking lot for as long as 10 hours in temperatures in excess of 90°F. Xxxx Decl. ¶12(iii). On May 25, 2006, a day on which the temperatures reached the mid 90s, the PETA investigator pulled so many dead turkeys from the coops that he could not keep track of the total number of carcasses. Xxxx Decl. ¶12(xx). On June 7, 2006, another hot day, the number of casualties was also high, and the investigator emptied one coop in which only a single bird remained alive. Xxxx Decl. ¶12(iii). The mortalities caused by heat exhaustion continued the next day and on June 12, 2006, with no apparent effort made by management—at any time—to address the situation. Xxxx Decl. ¶12(iii). ConAgra also dictates to its growers that the turkeys be denied food and water for 24 hours prior to transport, which, when combined with the extremely hot temperatures, likely contributes to the high death rate during transport. Xxxx Decl. ¶8; **Video Incidents # 16, #17, #18**.

As Dr. Siperstein-Cook concludes, “This plant’s failure to maintain a basic degree of concern for the welfare of animals should not be allowed to continue.”<sup>17</sup> ConAgra must be held responsible for this abdication of its duties and be prosecuted pursuant to Ark. Code Ann. § 5-62-101 and § 5-62-119.

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<sup>16</sup>Broom, *supra* note 5.

<sup>17</sup>Siperstein-Cook, *supra* note 1.

#### **IV. Conclusion**

ConAgra and its employees at the Butterball slaughterhouse have repeatedly violated Ark. Code Ann. § 5-62-101 and § 5-62-119 by knowingly causing or permitting live turkeys to be improperly and cruelly shackled, beaten, punched, and otherwise abused and transported in a cruel and inhumane manner and by failing to establish standard operating procedures or provide training and supervision to prevent the pervasive cruelty to animals that occurs in this facility.

It is imperative that the illegal activities that occurred (and that most certainly continue to occur) at the Butterball slaughterhouse in Ozark—conduct that is sanctioned by management—be prosecuted. The deliberate infliction of gratuitous pain, suffering, and death must be challenged, so that future violations of the state cruelty-to-animals statute are deterred. While the use of animals for human consumption is widely accepted by society, intentionally tormenting and terrorizing animals is not. That is precisely what the Arkansas Legislature understood when it enacted Ark. Code Ann. § 5-62-101 and § 5-62-119. We are obliged to ensure that these animals are spared any and all unnecessary cruelty, as required by the law. We look to you to take a leadership role in this obligation.

I am at your disposal to discuss the points detailed above.

Sincerely,

Lori Kettler  
Senior Counsel  
Research & Investigations Department