

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) A.Q. Docket No.: 09- 0193
)
Scott Kurtenbach d/b/a Kurtenbach)
Trucking, Kurtenbach Horse Company,)
and Kurtenbach Livestock, LLC,)
) Consent Decision
Respondent.)

This proceeding was instituted under the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) (the Act) by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service (APHIS) alleging that respondent Scott Kurtenbach d/b/a Kurtenbach Trucking, Kurtenbach Horse Company, and Kurtenbach Livestock, LLC (hereinafter, respondent), violated the Act and regulations promulgated thereunder (9 C.F.R. §§ 88 et seq.). The complainant and respondent have agreed that this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision only, respondent specifically admits that the Secretary of the United States Department of Agriculture (USDA) has jurisdiction in this matter, neither admits nor denies the remaining allegations in the complaint, and admits to the Findings of Fact set forth below.

Respondent waives:

- (a) Any further procedure;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;
- (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision; and
- (d) Any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the respondents in connection with this proceeding.

Findings of Fact

1. Respondent has been commercially transporting livestock, including horses, for five years and has an address of 3078 210th Street, Box 266, Lawler, Iowa 52154.
2. On or about September 20, 2004, respondent commercially transported 32 horses for slaughter.
3. On or about September 22, 2004, respondent commercially transported 46 horses for slaughter.
4. On or about October 20, 2005, respondent commercially transported 40 horses for slaughter.

Conclusions

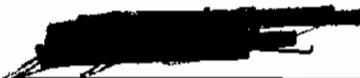
Respondent has admitted the jurisdictional facts and has agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

Order

Respondent is assessed a civil penalty of seven thousand five hundred dollars (\$7500.00) in settlement of all violations of the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) and 9 C.F.R. part 88 that the Administrator, APHIS, alleges that respondent has committed up to and including the effective date of this order. Respondent shall send a certified check or money order for seven thousand five hundred dollars (\$7500.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, P.O. Box 979043, St. Louis, Missouri 63197-9000, within thirty (30) days from the effective date of this Order. The certified check or money order should include the docket number of this proceeding. In addition, respondent, his drivers, and any other employees, contractors, or associates who handle slaughter horses and assist respondent in any aspect of the commercial transportation of horses to slaughter, including the purchasing, loading, and unloading of slaughter horses, shall attend a training session on how to comply with the Slaughter Horse Transportation Program regulations in 9 C.F.R. part 88 within one hundred and twenty (120) days from the effective date

of this order. This training session will be conducted by USDA Senior Staff Veterinarian Dr. Clement Dussault and USDA Animal Health Technician (AHT) Joseph Thomas Astling, and respondent shall coordinate the date and location of the training session with Dr. Dussault and AHT Astling as soon as possible after the effective date of this order. If respondent fails to pay the seven thousand five hundred dollar (\$7500.00) civil penalty or to complete the specified training within the times specified herein, the Administrator, APHIS, reserves the right to request a hearing and to seek the full amount of the civil penalties for all violations of the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) and 9 C.F.R. part 88 that respondent is alleged to have committed up to and including the effective date of this order, minus any amount already paid by respondent pursuant to this order.

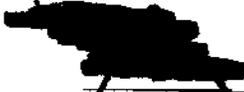
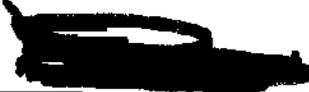
The effective date of this Order shall be the date on which this Order is served on respondent or his attorney by certified mail, return receipt requested.


SCOTT KURTENBACH D/B/A
KURTENBACH TRUCKING,
KURTENBACH HORSE COMPANY,
and KURTENBACH LIVESTOCK, LLC,
Respondent


THOMAS NEIL BOLICK
Attorney for Complainant


RICHARD MORRIS, ESQ.
BEECHER, FIELD, WALKER, MORRIS, HOFFMAN AND JOHNSON, P.C.
Attorney for Respondent

Issued this 23rd day of September 2009
at Washington, D.C.



Administrative Law Judge