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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) FMIA Docket No. 06-0004  
 )  
 Billings Meats and Processing Plant )  
 and Terry R. Billings, )  
 )  
 )  
 Respondents. ) CONSENT DECISION and ORDER

This proceeding was instituted under the Federal Meat Inspection Act, as amended (21 U.S.C. section 601 et seq.) ("FMIA") and the applicable Rules of Practice (7 C.F.R. section 1.130 et seq. and 9 C.F.R. section 500.1 et seq.), to withdraw Federal inspection services from Billings Meat and Processing Plant and Terry R. Billings, hereinafter referred to as Respondents. This proceeding was commenced by a complaint filed on December 6, 2005, by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA). The parties have agreed that this proceeding should be terminated by entry of the Consent Decision and Order set forth below pursuant to the consent decision provisions of the rules of practice (7 C.F.R. section 1.138).

Respondents admit the allegations in paragraphs I and II of the complaint and specifically admit that the Secretary has jurisdiction in this matter. Respondents neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and waive any action against the complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. section 504 et seq.). Respondents consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

Complainant agrees to the entry of this decision.

### Findings of Fact

1. Respondent Billings Meats and Processing Plant, is now, and at all times material herein was, a small slaughter and meat processing plant identified located at 12146 Benevola Road, Gordo, Alabama 35466 and identified as Establishment No. 20586.

2. On March 3, 2003, respondents were granted Federal inspection services pursuant to the FMIA at the business establishment located at 12146 Benevola Road, Gordo, Alabama 35466.

3. Respondent Terry R. Billings is now, and at all times material herein was, the owner of Billings Meats and Processing Plant and an individual responsibly connected thereto.

4. On June 29, 2005, in the District Court of Tuscaloosa County, Alabama, respondent Terry R. Billings was convicted of two (2) misdemeanor counts for violations of Section 002-017-013 of the Code of Alabama prohibiting the sale, transportation, offering for sale or transportation, or receipt for transportation in intrastate commerce meat products which were capable of use as human food and were adulterated and/or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation.

### Conclusion

The respondents having admitted the jurisdictional facts and the parties having agree to the entry of this decision, this decision will be entered.

### Order

Federal meat inspection services under the FMIA are withdrawn from respondents and respondent Billings Meats and Processing Plant's owners, officers, directors, partners, affiliates,

successors, and assigns for a period of three (3) years beginning on the effective date of this Order; Provided, however, the withdrawal of inspection services shall be held in abeyance, and inspection services shall continue to be provided to respondents for so long as the conditions set forth below, in addition to all other requirements for applicable inspection services, are met.

1. Respondent Terry R. Billings and respondent Billings Meats and Processing Plant, its owners, officers, directors, partners, employees, agents, affiliates, successors, and assigns shall not:

- (a) violate any section of the FMIA, Poultry Products Inspection Act (21 U.S.C. section 451 et seq.) (“PPIA”), or the regulations promulgated thereunder, or any state or local statutes involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated, uninspected or misbranded meat products;
- (b) commit any felony or other criminal act involving the sale or distribution of unwholesome, adulterated or misbranded meat products;
- (c) willfully make or cause to be made any false entry into any accounts, records, or memoranda kept by the respondents in compliance with applicable Federal or state statutes or regulations; neglect or fail to make full true and correct entries in such accounts, records or memoranda; or fail to keep such accounts, records or memoranda that fully and correctly disclose all transactions in respondents’ business;
- (d) assault, intimidate, threaten or interfere with, or threaten to assault, intimidate, or interfere with any program employee in the performance of his or her official duties under the FMIA;

(e) conduct any operation requiring Federal inspection outside the official hours of operation without first submitting a written request to, and receiving written approval from, FSIS.

2. Respondents shall not knowingly hire or add any new individual who has been convicted, in any Federal or state court, of any felony or more than one misdemeanor based upon the acquiring, handling, or distribution of unwholesome, mislabeled or deceptively packaged food, or based upon fraud in connection with transactions in food. Respondents shall immediately terminate their connection with any such individual when that individual's conviction becomes known to respondents.

3. Respondents shall comply with the Sanitation Performance Standards (SPS) and shall establish and maintain a Sanitation Standard Operating Procedure (SSOP) and a Hazard Analysis and Critical Control Point (HACCP) system in compliance with regulatory requirements specified in Title 9, Code of Federal Regulations, Parts 416 and 417. Respondents also shall develop an effective generic *Escherichia coli* Biotype 1 (*E. coli*) sampling program based on production volume to include written specimen collection procedures and frequencies, records of test results, and all other regulatory requirements as identified in 9 C.F.R. § 310.25.

4. Respondents shall maintain full, complete and accurate written records of all business activities involved in their operations under the FMIA and PPIA, including the SSOP and HACCP record requirements. Respondents shall make these records available for review and copying upon request of any authorized representative of the Secretary.

5. Respondents shall ensure that all custom exempt slaughtered and processed animal carcasses, and the processed meat or meat food products and poultry and poultry food products

derived therefrom, are properly labeled, packaged, plainly marked "Not for Sale" at all times, and are kept separate and apart from any meat and poultry products held for sale in accordance with 9 C.F.R. §§ 303.1 and 381.10; and shall maintain all records applicable to such custom operations as required by 9 C.F.R. §§ 303.1 and 381.10.

6. Within ninety days (90) of the effective date of this Order, respondent Terry R. Billings shall participate in and successfully complete a training program or educational course encompassing ethical business practices which has received the prior approval of the Director, Evaluation and Enforcement Division (EED) of OPEER, FSIS (hereinafter, the Director). Respondent Terry R. Billings shall maintain for the duration of the Order records documenting the completion of such training and shall make these records available upon request to any authorized representative of the Secretary.

7. Within sixty (60) days of the effective date of this Order, respondents shall develop and implement a corporate code or policy statement of business conduct and ethics to ensure food safety and regulatory compliance in business practices (hereinafter "Corporate Code") applicable to all business entities and individuals within or employed by respondent Billings Meat and Processing Plant. The Corporate Code, at minimum, shall include:

- (a) a statement of company policy addressing business ethics and the public trust;
- (b) a statement of respondents' commitment to comply with all applicable Federal and state food safety and other laws in the conduct of their business;
- (c) guidelines for respondents' employees to follow with respect to food safety and ethics issues; and

- (d) assurances to preclude any acts of intimidation, assault, or interference of USDA program employees.

The Corporate Code shall be submitted to the Director, EED for review and approval prior to implementation, shall be permanently displayed in a prominent location in respondents' establishment, and shall be discussed with all current and new employees.

8. On or before the expiration of sixty (60) calendar days from the effective date of this Order, respondents shall implement and maintain an effective compliance program to ensure that all inspected meat and/or poultry products do not become adulterated, contaminated or misbranded. This compliance program, which may be described in a separate document or may be incorporated in respondents' HACCP and/or SSOP plans, shall include provisions to ensure that:

- (a) the carcasses of slaughtered livestock are wholesome, free of any contamination, and unadulterated, and bear legible marks of Federal inspection in accordance with the requirements of 9 C.F.R. § 318;
- (b) all meat products are processed in accordance with product specifications and formulations in 9 C.F.R. § 318.6;
- (c) all meat products produced at respondent Billings Meats and Processing Plant do not have any undeclared substance of any kind, are correctly labeled, and bear full and accurate labeling in accordance with the requirements of 9 C.F.R. § 301.2; and
- (d) record keeping of product formulations for meat and/or poultry products produced at respondent Billings Meat and Processing Plant are in accordance with the

requirements of 9 C.F.R. §§ 318.6 and 381.118.

Respondents shall develop and submit their proposed compliance program to the Director or his or her designee for review. Respondents shall designate an employee and an alternate to be responsible for oversight of all aspects of the compliance program at all times during production. Such employee or alternate shall have full authority to hold up production, stop production, remove product from production, or take positive control of any products manufactured or stored at the facility which are or are believed to be adulterated or misbranded. The designated employee or alternate must be present at all times when operations requiring Federal inspection are conducted. The parties shall make every effort to ensure that Respondents' compliance program is reviewed and implemented in an expeditious manner.

9. Respondents shall provide an annual report to the Director regarding Respondents' compliance with all the terms and conditions of this Order, and FSIS statutory and regulatory requirements, including 9 C.F.R. Parts 416, 417, and 310.25.

10. Respondents shall fully and completely cooperate with any FSIS investigation, inquiry, review or examination of Respondents or Respondents' compliance with the FMIA, PPIA or this Order.

11. The provisions set forth in paragraphs 1 through 10 of this Order shall be effective for a period of three (3) years.

12. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Administrator, or his or her designee, that one or more conditions set forth in paragraphs 1 through 10 of this Order have been violated. It is

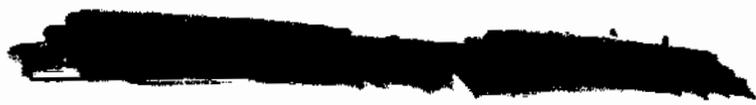
acknowledged that respondents retain the right to request an expedited hearing pursuant to the rules of practice concerning any violation alleged as the basis for a summary withdrawal of inspection services. Nothing in this Order shall preclude the referral of any such violation to the Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the FMIA, PPIA, and the regulations promulgated thereunder.

13. If any provision of this Order is declared invalid, such declaration shall not affect the validity of any other provision herein.

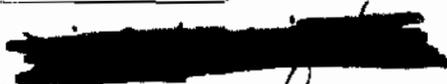
14. This Order shall become effective upon issuance by the Administrative Law Judge.

  
Mr. Terry R. Billings, Owner  
Billings Meats and Processing Plant  
Respondents

  
Scott C. Safian  
Director, Evaluation and  
Enforcement Division, OPEER, FSIS  
For the Complainant

  
Thomas N. Bolick  
Attorney for Complainant  
Office of the General Counsel

Issued this 12 day of April, 2006  
at Washington, D.C.

  
Jill S. Clifton, Admin. Law Judge

(signature on previous page)  
Administrative Law Judge