



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	FMIA Docket No. - 14-0174
Redwood Meat Company, Inc.)	- 14-0175
Allen Nylander)	- 14-0176
John Nylander)	- 14-0177
Cheryl Nylander)	14-0178
Rick Nylander)	14-0179
Ryan Nylander)	
)	
)	
)	
)	CONSENT DECISION

This proceeding was instituted under the Federal Meat Inspection Act (FMIA), as amended (21 U.S.C. § 601 *et seq.*) and the applicable Rules of Practice (7 C.F.R. §1.130 *et seq.* and 9 C.F.R. § 500.1 *et seq.*) to withdraw inspection services from Respondent Redwood Meats Company, Inc., herein referred to as Respondent Redwood. This proceeding was commenced by a complaint filed by the Administrator, Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA), who is responsible for the administration of Federal inspection services for meat and meat food products. This decision is entered pursuant to the consent decision provisions of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the jurisdictional allegations of the complaint. Respondents neither admit nor deny the remaining allegations and waive oral hearing and further proceedings. Respondents and the owners, officers, directors, partners, successors,

assigns, and affiliates of Respondent Redwood, waive any claim against complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) and waive any other action against USDA or its employees in connection with this proceeding and the facts and events that gave rise to this proceeding. Respondents consent and agree, for purpose of settling this proceeding and for such purposes only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. The Respondent Redwood, at all times material herein, was a corporation that operated a meat slaughter and processing operation at its facility located at 3114 Moore Avenue, Eureka, California 95501. The facility address is also the mailing address for Respondent Redwood.

2. Respondent Redwood, at all times material herein, was and has been granted federal inspection services and was a recipient of those inspection services, pursuant to the FMIA, at the above named establishment that is designated as Official Establishment Number 6066M.

3. Allen Nylander was, at all times material herein, responsibly connected to Respondent Redwood as president and holder of ten percent or more of voting stock in Respondent Redwood.

4. John Nylander was, at all times material herein, responsibly connected to Respondent Redwood as vice-president and holder of ten percent or more of voting stock in Respondent Redwood.

5. Cheryl Nylander was, at all times material herein, responsibly connected to Respondent Redwood as Secretary and Treasurer of Respondent Redwood

6. Rick Nylander was, at all times material herein, responsibility connected to Respondent Redwood as a management official of day to day operations of Respondent Redwood.

7. Ryan Nylander was, at all times material herein, responsibility connected to Respondent Redwood as a management official of day to day operations of Respondent Redwood.

8. On the morning of May 21, 2014, FSIS's Alameda District Office withheld the marks of inspection services from Respondent Redwood for alleged acts of intimidation,

harassment and interference by Respondent Redwood management officials towards FSIS personnel conducting pre-operational sanitation verification procedures. FSIS resumed inspection services at Respondent Redwood's establishment later that day based on assurances made by Respondents.

9. On the morning of July 5, 2014, the FSIS's Alameda District Office alleged acts of harassment and interference by one of Respondent Redwood management officials towards a FSIS inspector while performing ante-mortem inspection on cattle in the holding pens at the Respondent Redwood's establishment.

10. On the morning of July 10, 2014, the FSIS's Alameda District Office documented alleged acts of harassment and interference by Respondent Redwood's management officials towards FSIS personnel while performing inspection duties at Respondent Redwood's establishment.

11. On the morning of August 6, 2014, FSIS's Alameda District Office issued a verbal notification withholding the marks of inspection and suspending assignment of inspectors due to alleged acts of intimidation, harassment and interference by Respondent Redwood's employees against FSIS inspection personnel while performing inspection duties at Respondent Redwood's establishment.

12. In addition to the alleged acts of harassment, interference, and intimidation directed toward FSIS personnel on the dates above, FSIS has also observed, beginning on or after March, 2014, incidents that, in its view, create a potentially unsafe work

environment.

13. These ongoing incidents have caused FSIS inspection personnel to fear for their safety and interfered with their performance of their assigned statutory duties at Respondent Redwood's establishment. Further, FSIS has serious concerns regarding the safety and well-being of its inspection personnel while at Respondent Redwood's establishment.

14. On August 7, 2014, FSIS's Alameda District Office issued a written Notice of Suspension, in accordance with Section 500.3 of Title 9 of the Code of Federal Regulations (9 CFR § 500.3), based on repetitive and serious acts of impeding, intimidating, and interfering with FSIS program personnel engaged in the performance of official statutory and regulatory duties under the FMIA and the unsafe work environment at the establishment described above.

Conclusion

The parties having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, this decision will be issued.

Order

Federal inspection services under the FMIA are withdrawn from Respondent Redwood, its owners, officers, directors, partners, successors, affiliates, and/or assigns,

directly or indirectly, or through any corporate device, for a period of two (2) years, beginning on the effective date of this Order. Provided, however, that the withdrawal of Federal meat inspection services shall be held in abeyance, and inspection services shall be provided to Respondent Redwood for so long as the statutory and regulatory requirements for applicable inspection services under the FMIA and the terms and conditions of this Order are met.

1. Respondents shall demonstrate, prior to resumption of inspection services and subject to verification by FSIS that the structural, physical, and sanitary conditions at the establishment comply with applicable statutory and regulatory requirements under the FMIA.

Management Meetings

2. Respondent Redwood and its corporate officers and management officials, including Respondents Allen (Butch) Nylander (President), John Nylander (Vice President), Cheryl Nylander (Secretary/Treasurer), Ryan Nylander, and Rick Nylander, shall participate in up to quarterly meetings with FSIS officials regarding the issues relative to this Order.

(a) Said meetings shall emphasize expectations regarding interactions between Respondent Redwood and its officer, managers, and employees and FSIS personnel, maintaining professionalism and safety, preventing assault, threats of assault, intimidation, resistance, or interference with FSIS personnel, statutory and regulatory requirements, the

terms and conditions of this Order, the Respondents' responsibilities for implementation of the Order, and related matters.

(b) FSIS will select the date and location, and set the agenda for these meetings.

Provided, however, that at least one meeting shall take place in Eureka, California.

(c) The first meeting shall take place prior to the resumption of Respondent Redwood's inspection services at a date, place, and time agreed to by FSIS and the Respondents.

(d) Additional meetings may be set at up to a quarterly basis and FSIS shall provide Respondents with fifteen (15) days advance notice of any such meeting.

(e) FSIS may, in its discretion, determine the Agency attendees for these meetings and may, in its discretion, waive attendance for Respondents Allen Nylander, Cheryl Nylander, or other Respondent officials, if requested by Respondent Redwood.

(f) Respondents and FSIS agree to cooperate in setting these meetings.

(g) These meetings shall not limit, in any way, other meetings (e.g., weekly in-plant meetings) between FSIS and Respondent Redwood, its officers, managers, or employees.

Security and Safety Measures

3. Upon resumption of inspection services, and for the two (2) year period of the Order, Respondents shall ensure a working environment free from assault, threats of assault, intimidation, resistance, or interference with FSIS personnel in the conduct of or because of carrying out official duties under the FMIA at Respondent Redwood's

establishment.

4. Upon resumption of inspection services, and for the two (2) year period of the Order, Respondents shall provide measures to ensure the physical security and safety of the official premises and of FSIS personnel in the conduct of or because of carrying out official duties under the FMIA at Respondent Redwood's establishment.

(a) This shall include, at a minimum, the physical presence of a designated security officer at all times during hours of operation while FSIS personnel are present in the conduct of or because of carrying out official duties under the FMIA.

(b) Upon resumption of inspection services, and for the six (6) month period from the effective date of the Order, the designated security officer required herein shall be a trained, licensed, and contracted security guard from a reputable security company or with similar credentials and/or qualifications and experience.

(c) After the six (6) month period, the designated security officer may be an employee of Respondent Redwood, provided that the employee has substantial responsibilities for security matters as part of his or her job duties.

5. FSIS may, in its discretion, determine that Office of Inspector General (OIG) or other law enforcement personnel need to be in attendance during the initial walk through as set out in paragraph 1, initial and quarterly meetings as set out in paragraph 2, or at other times when FSIS inspection personnel are present and/or conducting official duties under the FMIA.

Non-Intimidation and Interference Policy and Program

6. Within thirty (30) days of the effective date of this Order, Respondents shall develop and submit for review and concurrence by the Director, Enforcement and Litigation Division (ELD) to include, at a minimum:

(a) a written policy to address measures that Respondent Redwood, its officers, managers, and employees will take, on a daily and on-going basis, to ensure that Respondent Redwood's officers, managers, and employees do not assault, resist, impede, intimidate, or interfere with FSIS personnel in the conduct of or because of carrying out official duties under the FMIA;

(b) include in the policy: (i) a statement of respondents' commitment to ensure the safety of and non-intimidation and non-interference with FSIS personnel; (ii) written guidelines prohibiting assaults, threats of assaults, intimidation, resistance, or interference with FSIS personnel; (iii) corrective actions, preventative measures, and assurances to be taken by Respondent Redwood's officers or managers to preclude any acts of assaults, threats of assaults, intimidation, resistance, or interference with FSIS personnel; (iv) corrective actions to be implemented by Respondent Redwood and its officers or managers if instances are reported; (v) disciplinary actions and sanctions against individuals, including officers or managers, involved in reported incidents; and, (vi) training for all current and future officers, managers, and employees.

7. The Non-Intimidation and Interference Policy and Program shall be permanently

displayed in a prominent location in Respondent Redwood's federal establishment and shall be provided to and discussed with all current and future officers, managers, and employees, and shall require written acknowledgement by each individual of receipt, discussion, understanding, and adherence to the policy and program.

Standards of Conduct Policy and Program

8. Within thirty (30) days of the effective date of this Order, Respondents shall develop and submit for review and concurrence by the Director, ELD, employee Standards of Conduct Policy and Program to include, at a minimum:

(a) a written policy of Respondents' commitment to ensure the safety and non-interference and non-intimidation with FSIS personnel;

(b) include in the policy: (i) a statement of Respondent Redwood's commitment and of its officers, managers, and employees not to condone nor tolerate use of or presence of illegal drugs, alcohol, or other legally controlled substances in Respondent Redwood's establishment by plant officers, managers, or employees; (ii) measures to address specific actions Respondent Redwood's management will take to correct and eliminate the use of drugs or alcohol; (iii) a statement of Respondents' commitment to maintain a safe work environment where mutual respect and the ability to work together productively are supported and precludes any acts of assault, threats of assault, intimidation, resistance, or interference; (iv) a statement of Respondents' commitment to promote communications and exchanges between Respondent Redwood's officers, managers, and employees and FSIS

personnel that are professional, respectful, business like, non-threatening, and non-offensive in gender or ethnicity; (v) guidelines for Respondent Redwood's officers, managers, and employees to follow with respect to food safety and ethics issues; and, (vi) measures for Respondent Redwood's officers, managers, and employees to report alleged violations of food safety, compliance, or ethics issues, or violations of company policies, to Respondent Redwood's officers or managers, without fear of reprisal and for Respondents to document and address reported allegations.

9. The Standards of Conduct Policy and Program shall be permanently displayed in a prominent location in Respondent Redwood's federal establishment and shall be provided to and discussed with all current and future officers, managers, and employees, and shall require written acknowledgement by each individual of receipt, discussion, understanding, and adherence to the policy and program.

Corporate Compliance and Ethics Policy and Program

10. Within thirty (30) days of the effective date of this Order, Respondents shall develop and submit for review and concurrence by the Director, ELD, a Corporate Compliance and Ethics Policy and Program to include, at a minimum:

(a) A code or policy statement of Respondents' business conduct and ethics to ensure food safety and regulatory compliance in business practices (hereinafter "Corporate Code"). The Corporate Code shall be applicable to all business entities and individuals within or employed by the Respondent Redwood.

(b) include in the policy: (i) a statement of corporate policy addressing its business ethics and the public trust; (ii) a statement of Respondents' commitment to comply with all applicable Federal and State food safety and other laws in the conduct of its business; (iii) a statement of Respondents' commitment to promote mutual respect, honesty, and integrity in the workplace; (iv) a statement of Respondents' commitment to provide a safe and healthy work environment; (v) guidelines for Respondent Redwood's officers, managers, and employees to follow with respect to food safety and ethics issues; (vi) assurances to preclude any acts of intimidation, assault, or interference of FSIS program personnel; and, (vii) guidelines for Respondent Redwood's officers, managers, and employees to report alleged acts of intimidation, assault, or interference, or violations of food safety and ethics issues without fear of reprisal and for management of Respondent Redwood to document and address all reported allegations.

11. The Corporate Code shall be permanently displayed in a prominent location in the Respondent Redwood's federal establishment and shall be provided to and discussed with all current and future officers, managers, and employees and shall require written acknowledgement by each individual of receipt, discussion, understanding, and adherence to the policy and program.

Plant Security and Safety Policy and Program

12. Within thirty (30) days of the effective date of this Order, Respondents shall cause to be developed and submit for review and concurrence by the Director, ELD, a Plant

Security and Safety Policy and Program to include, at a minimum:

(a) a written statement of Respondents' security and safety policy to ensure the physical security and safety of the official premises and of FSIS personnel in the conduct of or because of carrying out official duties under the FMIA.

(b) include in the security and safety policy measures to: (i) apply measures to ensure only authorized Redwood officers, managers, and employees have access to the official premises (e.g., plant-issued identification, collect identification or keys when employees leave, lock doors or other access points) (ii) restrict types of personal items allowed in the plant, specifically firearms or weapons (except those required to performance slaughter, processing, and/or other activities under the FMIA); (iii) secure and restrict access to official premises to only current officers, managers, and employees; (iv) ensure visitors are identified, escorted, or otherwise monitored or controlled while on official premises; (v) address the presence of unauthorized persons on the official premises; and, (vi) apply measures to ensure the physical security of the official premises (e.g., security officer, use of locked gates, fences, or similar measures).

13. The Plant Security and Safety Policy and Program shall be permanently displayed in a prominent location in the Respondent Redwood's federal establishment and shall be provided to and discussed with all current and future officers, managers, and employees, and shall require written acknowledgement by each individual of receipt, discussion, understanding, and adherence to the policy and program.

Training and Certification

14. Within sixty (60) days of the effective date of this Order, Respondents shall cause to be developed and delivered, by a qualified independent third party, a comprehensive training program, in all applicable languages specific to Respondent Redwood's workforce, to all current officers, managers, and employees on the Non-Intimidation and Interference Policy, Standards of Conduct Policy, Compliance and Ethics Policy, and Plant Security and Safety Policy required by this Order.

15. Within forty-five (45) days of the effective date of this Order, Respondents shall identify the third party that will provide the training and submit a description of the proposed training program for concurrence by the Director, ELD, or designee.

16. Respondents shall train and educate any new officer, manager, or employee, consistent with the requirements of paragraph 14, within thirty (30) days of their employment. Provided, however, that the training of any employees hired by Respondent Redwood after delivery of the initial training required by this Order may be conducted and delivered by Respondent Redwood's officers or managers.

17. Respondents shall review the policies and training with all officers, managers, and employees, on at least a bi-annual basis. Provided, however, that this bi-annual review may be conducted and delivered by Respondent Redwood's officers or managers.

18. Respondents shall cause to be made a written record of all training and certifications required by this Order, maintain all records relative to the training and

certification for the duration of this Order, and make those records available for review and/or copying immediately upon request by any FSIS program personnel.

Implementation

19. Respondents shall implement the company policies and programs required by this Order, require strict adherence to the company policies and programs on the part of all current and future officers, managers, and employees, and take and document corrective action, including disciplinary action, when necessary.

General Provisions

20. Respondent Redwood and any of Respondent Redwood's partners, businesses, affiliated entities, agents, and assigns, and its officers, managers, and responsibly connected officials, shall not:

(a) criminally violate any section of the FMIA, or regulations promulgated thereunder, any state or local statute involving the preparation, sale, transportation, or attempted distribution of any adulterated, non-inspected, misbranded or deceptively packaged meat, or meat food products;

(b) commit any felony or fraudulent act or other criminal act involving fraud, conspiracy, bribery, or any other act or circumstances indicating a lack of integrity needed for the conduct of operations affecting public health;

(c) knowingly employ any individual, in a responsibly connected position (as defined by the FMIA) who has been convicted, in any Federal, state, or territorial court, of

any felony, or of more than one misdemeanor based upon the acquiring, handling, or distributing of unwholesome, mislabeled or deceptively packaged food, or of more than one misdemeanor based upon fraud in connection with transactions in food.

(d) assault, intimidate, impede, threaten or interfere with any program employee in the performance of his or her official duties under the FMIA;

21. Respondents shall fully and completely cooperate with any FSIS or USDA investigation, inquiry, review, or examination of respondent's compliance with the FMIA or with the terms and conditions of this Order.

Enforcement Provisions

22. The Administrator, FSIS, shall have the right to summarily withdraw inspection service from Respondent Redwood upon a determination by the Director, ELD, that Respondents have committed an act in violation of or failed to comply with any requirement of this Order. The withdrawal of inspection service shall become effective immediately upon FSIS's service of a Notice of Summary Withdrawal to Respondents, without further proceeding. Respondents shall retain the right, after any summary withdrawal of Respondent Redwood's inspection services, to request an expedited hearing, pursuant to the applicable rules of practice (7 C.F.R. Part 1, subpart H and 9 C.F.R. Part 500). Such request for an expedited hearing must be submitted within twenty (20) calendar days of FSIS' service of a Notice of Summary Withdrawal.

Miscellaneous Provisions

23. Nothing in this Order shall preclude (a) any future criminal, civil, or administrative action authorized by law, regulation or otherwise, including, but not limited to any action under the FSIS Rules of Practice (9 C.F.R. Part 500), or (b) the referral of any matter to any agency for possible criminal, civil, or administrative proceedings.

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

25. The provisions of this Order shall be applicable for a period of two (2) years from the effective date of this Order.

26. This Consent Decision and Order shall become effective upon issuance by the Administrative Law Judge.

RESPONDENTS

By: *Allen Nylander*
Allen (Butch) Nylander, President
Redwood Meat Company, Inc.

Division

Service

[Redacted]

John Nylander, Vice President
Redwood Meat Company, Inc.

[Redacted]

Cheryl Nylander, Secretary/Treasurer
Redwood Meat Company, Inc.

COMPLAINANT

Scott S. Safian
Scott S. Safian, Director
Enforcement and Litigation

Food Safety and Inspection

[Redacted]

Rick D. Herndon
Attorney for Complainant
Office of the General Counsel

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Tracy McGowan
Attorney for Complainant
Office of the General Counsel

[REDACTED]
Rick Nylander, Employee

[REDACTED]
Ryan Nylander, Employee

[REDACTED]
Robert G. Hibbert,
Attorney for Respondents

Issued this 25th day of August, 2014 at Washington, D.C.


[REDACTED]
Administrative Law Judge