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May 2, 2008

VIA HAND DELIVERY

The Honorable Ed Schafer
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250
Facsimile: (202) 720-2166

Re: Humane Handling of Downed Animals at Slaughterhouses,
Auctions, and Markets.

Dear Secretary Schafer:

In response to your request to be promptly notified of any evidence of abuse in the livestock industry, I am writing to bring to your attention the preliminary results of an ongoing HSUS investigation concerning the abuse of nonambulatory cows and pigs at livestock markets and slaughterhouses, and to ask that the Department of Agriculture immediately issue regulations to prevent such abuses.

As you know, HSUS recently documented egregious cruelty and inhumane handling of downed cows at the Hallmark/Westland Meat Co., and has asked the Department to revise its regulations concerning downed animals as a result. The abuses documented at Hallmark/Westland have had far-reaching consequences, including the recent recall of more than 143 million pounds of potentially tainted ground beef. Hundreds of companies have suffered economic hardship as a result of the recall due to product commingling and further processing. Consumer confidence in the beef supply and the regulatory oversight system has been badly shaken.

As we have previously emphasized, the set of facts we documented at Hallmark/Westland was not an isolated circumstance. Indeed, HSUS continues to receive reports about nonambulatory animals too sick even to stand, who are subjected to overt abuse and neglect.

As part of an ongoing investigation, HSUS investigators have visited livestock auctions in the Mid-Atlantic and Southwest and found dead animals arriving at auctions and downed dairy cows languishing for hours with no relief.

The enclosed DVD contains footage of downed cows at auctions including:

Celebrating Animals, Confronting Cruelty

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- Two downed cows are shown at a Southwest auction. The animals were abandoned in a parking lot near the offloading area and videotaped over a period of four hours by HSUS investigators. Both cows were still alive and in the same place when HSUS investigators had to leave the stockyard at closing time.
- A dead dairy cow is shown being removed from a livestock trailer at a Southwest auction with a chain attached to her legs and a tractor. This cow must have been discernibly ill when she was picked up by the hauler. HSUS investigators have been told that the same method is used to remove live, downed cows from trucks at this stockyard.
- A downed cow left overnight at a Mid-Atlantic auction is shown. The day following the auction, she was filmed by HSUS investigators in an advanced state of physical distress. Her breathing was labored and she flailed helplessly on the ground. She had no protection from the elements and was without food or water for almost a day.
- Two downed cows are shown in a pen of other cows waiting to go into a Southwest auction barn. The cows were filmed over a period of five hours. One of the cows was in obvious pain, had labored breathing, a very swollen udder, was flailing her legs intermittently, and was expelling waste and fluids into the area where other cows were standing. Both of these cows were still in the pen at the end of the day. HSUS investigators also filmed a cow in another pen on her front knees, trying to stand. She was in this position for nine minutes before going down completely. We have not included this clip because our investigators did not have their cameras on the animal when she finally went down.

Also, in the past three months alone HSUS has received detailed information from slaughterhouse employees, animal control officers, regional humane societies and other percipient witnesses reporting acts of egregious mishandling. We are continuing our investigations of the problem.

These disturbing cases we've documented not only augment the case for a comprehensive downer ban, but also demonstrate the importance of having the downer policy apply to stockyards, market agencies, and dealers.

Congress is well aware of the fact that the problems relating to downed animals are not limited to the slaughterhouse but may arise at earlier other points in the animal handling process. Accordingly, in 2002, Congress directed the Secretary to investigate the problem and report to Congress on four issues:

- (1) the scope of nonambulatory livestock;
- (2) the causes that render livestock nonambulatory;
- (3) the humane treatment of nonambulatory livestock; and

- (4) the extent to which nonambulatory livestock may present handling and disposition problems for stockyards, market agencies, and dealers.¹

Congress also directed that, “[b]ased on the findings of the report, if the Secretary determines it necessary, the Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of nonambulatory livestock by stockyards, market agencies, and dealers.”² The 2002 Act also specifically authorized the agency to impose civil and criminal penalties for inhumane handling.³

However, it would appear that this Congressional mandate has gone unfulfilled. To our knowledge, Congress never received the Nonambulatory Livestock Report. Furthermore, no regulations were ever promulgated under the authority of section 1907, and the treatment of downed animals at markets and auctions remains entirely unregulated. The cruelty documented in our most recent investigations is a direct result of the agency’s failure to carry out its statutory mandate.

Accordingly, and given the six years that have passed since Congress directed the agency to address the treatment of downed animals both in the slaughterhouse *and* at market, HSUS requests that the Department of Agriculture take swift and decisive action to address the inhumane handling of animals.

Specifically, in addition to closing the current loophole in the agency’s existing downer regulation for slaughterhouses, we urge that the agency take the follow actions:

- (1) Require immediate and humane euthanasia of all nonambulatory livestock, regardless of the reason(s) an animal went down, including nonambulatory livestock at stockyards, market agencies, and dealers, and on livestock trucks.
- (2) Except in cases where euthanasia is impossible *in situ*, nonambulatory animals may not be moved or transported.
- (3) In cases where movement is required, a nonambulatory animal must first be rendered unconscious and must remain unconscious until death. Nonambulatory animals must be moved by suitable equipment and trained personnel and only so far as is necessary to safely perform the euthanasia procedure. Movement must be minimized to the greatest extent possible.
- (4) Euthanasia must be performed by a competent and trained individual with either a captive bolt gun or a firearm using properly calibrated equipment and/or live rounds (*e.g.* hollow point bullets). Whichever is used, the method should cause immediate loss of consciousness followed by clinical death.
- (5) Clinical death must be confirmed prior to disposal.

These minimal standards should be uniformly applied at all facilities over which the agency has jurisdiction. Only by imposing clear and universal rules with regard to downers

¹ 7 U.S.C. § 1907(a).

² 7 U.S.C. § 1907(b).

³ 7 U.S.C. § 1907(c) provides investigative and penalty authority.

throughout the animal handling system can the agency resolve this problem, and avoid more embarrassing and damaging public incidents like that at Hallmark.

We look forward to working with you to address the disturbing humane handling problems revealed by our most recent investigations, and to remedy the agency's six-year delay in implementing the 2002 Congressional mandate to find and implement solutions to the widespread and ongoing problem of downed animals in the U.S. food supply.

Sincerely yours,

A handwritten signature in black ink that reads "Wayne Pacelle". The signature is written in a cursive, flowing style.

Wayne Pacelle
President & CEO