



**Summary of Judge Kollar-Kotelly's March 28, 2007 Ruling
Barring USDA From Conducting Pre-Slaughter Horse Inspections**

Background

- In November 2005, Congress deliberately de-funded pre-mortem horse slaughter inspections otherwise required by Federal law before horses can be slaughtered for human consumption. The goal was to halt horse slaughter.
- Instead of complying with this law, in February 2006 the USDA created a new program for the plants to pay for their own inspections. The agency issued the regulations without the advance public notice and comment period required by law and without any environmental review.
- The Humane Society of the United States and other organizations sued USDA in Federal District Court in February 2006 for: (1) ignoring public notice and comment requirements; (2) violating the Federal Meat Inspection Act and the November 2005 Congressional de-funding law by allowing the plants to pay for inspections; and (3) failing to conduct environmental assessments as required by Federal law.
- Congress' decision to de-fund inspections for horse slaughter in the Fiscal Year 2006 Agriculture Appropriations Bill carries over through September 30, 2007 because of a Continuing Resolution passed by Congress.

Judge Kollar-Kotelly's Opinion and Order

- On March 28, 2007, the Court awarded final judgment to the plaintiffs on the basis of the third claim, and ruled that USDA had acted "in violation of the law" by creating the industry-funded inspection program without first undergoing the environmental review required of all major federal regulatory actions. Accordingly, the Court did not reach the other claims.
- The Court's final order specifically and immediately bars USDA from continuing its horse inspection scheme.

Details of the Decision

- The Court “vacated” or struck down the USDA “rule” that had made it possible for the plants to continue slaughtering horses. The judge also permanently barred USDA from “implementing” that rule. Because USDA “implements” the rule by conducting fee-for-service inspections, the Court’s order precludes USDA from inspecting any horses at all. Accordingly, the slaughter plants must cease operations because federal inspection is required under a separate federal law.
- The Court found that USDA had acted “in violation of the law” with respect to two federal statutes in its haste to help the slaughter plants -- the National Environmental Policy Act, or NEPA, and the Administrative Procedure Act, or APA.
- NEPA requires federal agencies to conduct an environmental review before undertaking any major regulatory action such as the brand new slaughter inspection program at issue here.
- Specifically, the Court found that USDA had not only *failed* to do the required assessment, but had actively tried to “*shield*[] the Interim Final Rule from any environmental consideration.” The Court characterized the environmental review as “deafening silence” and scolded that USDA “never environmentally assessed the Interim Final Rule in any manner whatsoever.”
- The Court concluded that USDA had acted “arbitrarily and capriciously” by putting in place a rule that violates NEPA, and therefore held that USDA had also violated the APA. The APA is a law that gives citizens redress from unlawful acts of federal agencies and the unelected political appointees who head them.
- The Court also specifically found that “[w]ithout it [USDA’s action], the horse slaughter facilities would not continue to function.” Therefore, USDA is responsible for the illegal slaughter of the approximately 100,000 horses slaughtered since the effective date of the statute enacted by Congress to prevent that from happening.