

ERATH COUNTY DAIRY SALES, 2020: INVESTIGATION OVERVIEW, REPORTING INFORMATION, & OUTSIDE RESEARCH

Overview

During the course of an investigation into Erath County Dairy Sales, Inc.¹ (ECDS) and ABF Packing, Inc.² (ABF), a SEED investigator documented (i) repeated acts of intentional cruelty, inhumane and improper handling, and severe neglect in violation of Texas Penal Code § 42.09 (Cruelty Statute), in addition to (ii) ongoing violations of regulations promulgated under the federal Packers & Stockyards Act³ (P&S Act) and (iii) repeated and intentional violations of the US Department of Agriculture's (USDA) Animal Disease Traceability regulations⁴ and Texas Animal Health Commission's (TAHC) Texas Animal Disease Traceability regulations.⁵

On January 7 and 10, 2020, a SEED investigator visited ECDS, a cattle livestock auction and market that runs every Friday, and observed the auction's operations. The investigator returned to the premises on January 24, 2020, applied for a job as a cattle handler, and was hired immediately.⁶ He subsequently returned to work at ECDS every Friday for eight (8) consecutive weeks; his final working day at the facility was March 13, 2020.

Facilities and Ownership

ECDS is located at 8892 S. US Highway 377, Dublin, TX 76446. It is a corporation organized under the laws of the State of Texas and is in the business of conducting and operating a posted stockyard subject to the provisions of the P&S Act. ECDS is registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis and is engaged in the business of doing so. Upon information and belief,

¹ Texas Corporation 0055214900.

² Beyer & Funderburgh, Ltd., d/b/a ABF Packing, Ltd. (Texas Corporation 0800251156), ABF Management, Inc. (Texas Corporation 0800271727), and ABF Packing, Inc.# (Texas Corporation 0138578300), hereinafter collectively referred to as "ABF."

³ 7 U.S.C. §§ 181 *et seq.* and 9 C.F.R. §§ 201.1 *et seq.*

⁴ Traceability for Livestock Moving Interstate, 9 C.F.R. Subchapter C §§ 86 *et seq.*

⁵ 4 TEX. ADMIN. CODE Part 2, Chapter 50.

⁶ While SEED's investigator was directly employed by ECDS, he was regularly called upon to assist ABF workers in unloading and handling cattle on behalf of ABF. However, the investigator never entered ABF's slaughterhouse; this investigation centers on conduct by ECDS owners and management.

Jimmy G. “Jim” Beyer is the President and owner of the majority of ECDS stock and is responsible for its day to day direction, management, and control.

ECDS is located adjacent to the property on which ABF is located. ABF runs a cattle slaughterhouse⁷ located at 8758 S. US Highway 377, Dublin, TX 76446. It is a corporation⁸ organized under the laws of the State of Texas and is both engaged in the business of buying livestock in commerce for the purpose of slaughter and is a packer within the meaning of and subject to the provisions of the P&S Act. Upon information and belief, Jimmy J. “Jason” Beyer (Jim Beyer’s son), is a general partner and President of ABF and is responsible for its day to day direction, management, and control. Jason Beyer recently retired as vice chairman of the Texas Beef Council and is a former member of the Board of Directors of the Beef Promotion and Research Council of Texas (the Council manages the Texas Beef Checkoff program).

Prior Violations of Law and Regulation (Not Exhaustive)

On November 3rd, 2009, Jim Beyer/ECDS and Jason Beyer/ABF were subject to administrative action by the USDA, in the form of injunctive relief and civil penalties totaling \$12,400.00, for violations of the P&S Act and corresponding regulations. On January 23rd, 2020, ABF was suspended by the USDA’s Food Safety and Inspection Service (FSIS) after an “egregious inhumane handling event,” in violation of the Humane Methods of Slaughter Act⁹ (HMSA) and corresponding regulations, was witnessed by a federal inspector. On January 29th, 2020, while the facility was operating conditionally under the terms of a Notice of Suspension Held in Abeyance due to the prior week’s incident, ABF was again suspended for violating the HMSA, as well as violating the facility’s *Slaughter Hazard Analysis and Critical Control Point* plan, after a slaughterhouse employee shot a bull five (5) times with a shotgun before the animal was finally rendered unconscious. On March 19, 2020, ABF appeared on FSIS’ weekly residue repeat violator list after kidney samples from two dairy cows tested positive for antibiotics in April of 2019 and January of 2020, in violation of federal regulations.¹⁰

⁷ USDA Establishment 19478.

⁸ Beyer & Funderburgh, Ltd., d/b/a ABF Packing, Ltd., is a Texas limited partnership. ABF Management, Inc., is a general partner of Beyer & Funderburgh, Ltd.

⁹ 7 U.S.C. §§ 1901 *et seq.*

¹⁰ See, FSIS, National Residue Program for Meat, Poultry, and Egg Products.

(1) Criminal Cruelty to Livestock Animals

During the course of his employment, SEED's investigator witnessed and documented an enduring pattern of animal cruelty at both ECDS and ABF, as well as witnessing sick, injured, and dying cattle transported to and dropped off at the facility by a number of different in-state and out-of-state dairy farms and livestock auction markets. The investigator repeatedly reported these vulnerable animals to other employees and to his ECDS manager, who repeatedly dismissed the investigator's reports.

Sick or injured and non-ambulatory animals arriving at the facilities were routinely ignored, only to finally pass away after suffering for hours in ECDS and ABF pens. In cases where non-ambulatory animals were able to stand and walk, usually through force via the overuse of electric prods, the cows were then sent immediately to ABF for slaughter in violation of federal regulations.¹² When sick or injured cows were euthanized, it was often done only to remove the animals from a passageway and was performed improperly, causing further, prolonged suffering.

The investigator observed firsthand the following incidents, which he documented on video, in photographs, and in his daily written reports:

- Improper euthanasia and refusal to provide care for or euthanize animals who are clearly suffering, even after being put on notice;
- Severe neglect of sick, injured, and otherwise non-ambulatory animals and animals left for prolonged periods of time without food or water; and
- Proactive acts of animal cruelty, including, the overuse of electric prods on non-ambulatory animals, the use of electric prods on animals' sensitive areas, including their eyes, faces, and genitals, and hitting and slamming gates into animals.

¹¹ When reporting animal cruelty violations, SEED's petition included evidence of and advocated for the attachment of criminal liability to ECDS and ABF and their owners and management for the failure to provide animal handling and care training to employees, the failure to provide adequate employee supervision, and the failure to take corrective action when reports of animal cruelty were presented to management. SEED advocates for an anti-punitive and anti-carceral approach regarding individual workers in conducting and reporting on our investigations.

¹² According to ECDS and ABF employees; SEED's investigator did not personally witness the slaughter of non-ambulatory cows.

(2) Animal Disease Traceability Rule Violations

During the course of his employment, the investigator witnessed and documented an enduring pattern of willful ADT rule violations, directed by ECDS and ABF owners and management. The investigator observed firsthand the following incidents, which he documented on video, in photographs, and in his daily written reports:

- Employees removing official ADT program cattle ear tags, including radio frequency identification (RFID) tags and back tags, containing specific three- to four-digit numbers and the words, including “STATE-FEDERAL DO NOT REMOVE” and “UNLAWFUL TO REMOVE” (ADT tags);
- Employees replacing the removed ADT tags with white-sticker back tags containing two- to three-digit numbers, in the same position as the removed tags (the investigator believed this was to conceal the removal of the ADT tags);
- Verbal statements by ECDS employees that the tag removal and replacement practice is done at the direction of ownership and management for the purpose of concealing the cows’ source and traceability over state lines, so that they may be sold for a higher price;
- Verbal statements by on-site veterinarians and veterinary technicians regarding the illegal removal of ADT tags;
- Written documentation of the above practice in the form of handwritten records listing removed tag numbers and replacement tag numbers for cattle that had been transported across state lines; and
- Written documentation that another of Jim Beyer’s sons, Jef Beyer,¹³ sent cattle to ECDS from New Mexico, and evidence that ECDS employees subsequently removed and replaced these cows’ ADT tags; and
- Hundreds, if not thousands, of removed ADT tags that employees (including the investigator) were instructed to pick up from the ground and dispose of.

The investigator is documented reporting the removal of the ADT tags to management, to no avail. These incidents constitute illegal violations of federal regulations that, due to their intentional nature,¹⁴ rise to the level of criminal conduct.¹⁵

¹³ Jef Beyer owns and runs a livestock market agency, Beyer Livestock Auction, L.L.C. (NM Corporation 4432597), located at 908 Colonial Pkwy, Clovis, NM 88101.

¹⁴ ADT Monitoring and Compliance Guidelines, p. 10 (July 2019).

¹⁵ 7 U.S.C. § 8301(a)(1).

(3) Packers & Stockyards Act Violations

During the course of his employment, the investigator witnessed and documented an enduring pattern of P&S Act violations perpetrated by Jim Beyer and Jason Beyer through ECDS and ABF. The investigator observed firsthand the following incidents, which he documented on video and in his daily written reports:

- Jason Beyer's regular oversight of ECDS auctions, acting as auctioneer and assisting and giving another auctioneer instruction during every ECDS auction;
- Jason Beyer's regular participation in the day to day management and operations of ECDS, providing instructions to ECDS employees regarding ECDS cattle;
- Jason Beyer purchasing cattle on behalf of ABF at ECDS auctions;
- ECDS management making verbal statements that ECDS and ABF are co-operating illegally;
- Sick and/or injured ECDS cattle being walked towards ABF for slaughter (*SEED does not have direct evidence of slaughter in these instances*); and
- Verbal statements by ECDS management and employees that ECDS/Jim Beyer sends ECDS cattle that are sick or injured directly to ABF for slaughter (*same comment as above*).

USDA Investigation

On March 27, 2020, SEED reported the above violations to the USDA's Food Safety and Inspection Service (FSIS).

On April 6, 2020, an FSIS investigator interviewed SEED's investigator in person, with SEED legal counsel present. At this time, FSIS reported to SEED that USDA planned to conduct an on-site investigation at ECDS and ABF from April 7 - 9, 2020. On April 9th, FSIS verbally confirmed to SEED that the three-day investigation had taken place as planned.

Subsequent to USDA's on-site investigation, FSIS stated to SEED, both verbally and in writing, that the USDA's Office of the Inspector General (OIG) was investigating the reported animal cruelty violations, that USDA's Animal and Plant Health Inspection Service (APHIS) was investigating the Animal Disease Traceability rule violations, and that that USDA's Agricultural Marketing Service (AMS) was investigating the Packers & Stockyard Act violations.

USDA has declined to provide additional details to SEED regarding their investigation of ECDS' and ABF's reported conduct, citing the ongoing investigation.

Outside Research

United Nations Environment Programme and International Livestock Research Institute (2020). [Preventing the Next Pandemic: Zoonotic diseases and how to break the chain of transmission](#). Nairobi, Kenya.

Bonilla-Aldana DK, Dhama K, Rodriguez-Morales AJ (2020). [Revisiting the One Health Approach in the Context of COVID-19: a look into the Ecology of this Emerging Disease](#). Adv. Anim. Vet. Sci. 8(3): 234-237.

Petrikova I, Cole J, Farlow A. [COVID-19, wet markets, and planetary health](#). *Lancet* 2020.

Poudel, B. (2020). [Ecological solutions to prevent future pandemics like COVID-19](#). *Banko Janakari*, 30(1), 1-2.

Wiebers D, Feigin, V. [What the COVID-19 Crisis Is Telling Humanity](#). *Neuroepidemiology*. 2020.

Centers for Disease Control and Prevention, [Multi-State Outbreak of Multi-Drug Resistant Salmonella Heidelberg Infections Linked to Contact with Fairy Calves](#). February 2018.

FAO. 2013. [Surge in diseases of animal origin necessitates new approach to health - report](#). Rome.

FAO. 2013. [World Livestock 2013 – Changing disease landscapes](#). Rome.

Centers for Disease Control and Prevention, National Center for Emerging and Zoonotic Infectious Diseases. [Zoonotic Diseases](#) (last accessed September 2020).

Durso, L.M., Cook, K.L. [One Health and Antibiotic Resistance in Agroecosystems](#). *EcoHealth* **16**, 414-419 (2019).

Yang Y, Ashworth AJ, Willett C, Cook K, Upadhyay A, Owens PR, Ricke SC, DeBruyn JM and Moore PA Jr. (2019). [Review of Antibiotic Resistance, Ecology, Dissemination, and Mitigation in U.S. Broiler Poultry Systems](#). *Front. Microbiol.* 10:2639.

Tiedje J M, Wang F, Manaia C M, Virta M, Sheng H J, Ma L P, Zhang T, Topp E. 2019.
[Antibiotic resistance genes in the human-impacted environment: A One Health perspective.](#)
Pedosphere. **29**(3):273-282.