



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

September 20, 2000

The President  
The White House  
Washington, D.C. 20500

Re: OSC File No. DI-99-1580

Dear Mr. President:

In accordance with 5 U.S.C. § 1213(e)(3), I am transmitting a report from the Honorable Daniel Glickman, Secretary of Agriculture, sent to me pursuant to 5 U.S.C. §§ 1213(c) and (d). The report sets forth the findings and conclusions of Secretary Glickman's review of disclosures of information allegedly evidencing a violation of law, rule, or regulation and a substantial and specific danger to public health by employees at the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), Atlanta District Office, Atlanta, Georgia.

We have carefully examined the original disclosures and reviewed the agency's response. The whistleblower requested anonymity and chose not to comment on the agency's report. Pursuant to 5 U.S.C. § 1213(e)(2), I have determined that the findings in the agency's report appear reasonable and contain all the information required by statute.

Specifically, the whistleblower alleged that line inspectors routinely abandon their assigned duty stations without arranging for other employees to take their place. The whistleblower reported that Shapiro Packing runs at a line speed of 174 head of cattle per hour, that the cattle heads are presented with tongues intact, and that organs are inspected on a viscera table. Based on these specifications, the whistleblower reported that 9 C.F.R. § 310.1(b)(2)(ii) requires seven line inspectors – three for the heads, three for the viscera, and one for the carcasses.

The whistleblower reported that on a daily basis for the past several years, FSIS line inspectors at Shapiro Packing, including Dana and Tony Merritt, leave their duty stations without arranging for other inspectors to cover their stations. According to the whistleblower, if an inspector must leave the line, he/she is supposed to ring a bell to notify others that they need to leave and another inspector is dispatched to cover the duty station. Because this procedure is not followed, during the absence of line inspectors, the processing plant operates with less than seven line inspectors as required

by regulation. The whistleblower reported that Dr. Neil Williams, DVM, the FSIS supervisor at Shapiro Packing, is aware of this practice but has failed to correct it.

In addition to the violation of regulation, the whistleblower believes that this practice creates a specific danger to public health. According to the whistleblower, the line inspectors must work more quickly when one leaves the line because the line operates at a constant speed. He alleged that this creates a danger that line inspectors will not be thorough and that cows will not be properly inspected, increasing the risk that diseased or otherwise contaminated cow will be processed, sent to final packaging, stamped "USDA Inspected," and distributed for consumer consumption. The whistleblower reported that the types of contamination and diseases that can be missed by inspectors include cow tuberculosis, cancer, and fecal contamination. The whistleblower alleged that fecal contamination can cause E. coli and presents a danger to public health.

I transmitted this information to Secretary Glickman for an investigation of the allegations described above and a report, pursuant to 5 U.S.C. §§ 1213 (c) and (g). According to the agency's report, the investigation findings support the whistleblower's claim that line inspectors left their duty stations without arranging for proper relief. The report acknowledged that this conduct has been an on-going problem for approximately two years. The inspectors admitted that they had left the line early or had to cover two inspection positions for various reasons. In June 2000, Dr. John Floyd, the Circuit Supervisor, gave the inspectors specific instructions concerning the proper method of relief. The report asserted that any improper conduct has since ceased.

The report further stated that Dr. Williams had previously received two letters of instruction regarding proper line staffing and coverage. Specifically, Dr. Williams was instructed to correct the conduct of his inspection staff to prevent inspectors from leaving the floor without proper relief. Although Dr. Williams posted a memorandum on April 14, 1999, regarding the problem of inspectors leaving a duty station without being relieved, the agency's report acknowledged that Dr. Williams failed to take measures to assure compliance with the proper procedures. On May 10, 2000, the agency gave Dr. Williams a notice of proposed disciplinary action for his failure to follow instructions.

The USDA denied that these practices created a specific danger to public health. The inspectors interviewed emphasized that all carcasses and parts received proper and thorough inspection. Each inspector stated that s/he could cover another inspector's adjacent station for a brief period. Furthermore, each inspector could slow down or stop the chain if s/he had any doubt about her/his ability to thoroughly cover the two duty stations. Lastly, the report stated that if the line was running short staffed for more than fifteen minutes, Dr. Williams and/or the plant slowed the line.

The report concluded by stating that the agency plans to further caution inspectors about leaving their duty stations without coverage. The USDA also intends to take appropriate action to correct the rotation practices, so that rotation only occurs during breaks or when a floor inspector is present to provide appropriate coverage.

Pursuant to 5 U.S.C. § 1213(e)(2), I have concluded that the findings in the report are a reasonable response to the disclosure and meet the statutory requirements of section 1213(d). As required by section 1213(e)(3), I have sent copies of the report to the Chairman of the Senate Committee on Agriculture, Nutrition and Forestry and the Chairman of the House Committee on Agriculture. We have also filed a copy of the report in our public file and closed the matter.

Respectfully,



Elaine Kaplan

Enclosure