



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Meat and Poultry Inspection Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Dr. Beth Yongue
Director

January 7, 2020

HAND DELIVERED

Mr. Vic & Mrs. Teresa Swinson
Wells Pork & Beef, Inc. dba as Wells Pork and Beef Slaughter and Wells Pork and Beef Processing
750 Croombsbridge Road
Burgaw, NC 28425

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF THE NORTH CAROLINA MEAT
INSPECTION LAW, N.C.G.S. § 106-549.23(3).

Dear Mr. and Mrs. Vic Swinson,

Pursuant to North Carolina General Statutes § 106-549.35(c), you are hereby assessed a civil penalty by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS), Meat and Poultry Inspection Division. The Notice of Violations and Assessment of Civil Penalty is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the Office of Administrative Hearings appealing the penalty assessment.

Pursuant to G.S. §150B-22, informal settlement negotiations may be initiated at any time. To negotiate a settlement of this assessment, present your offer to Dr. Beth Yongue, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 707-3180. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided on the next page:

-PAYMENT-

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Beth Yongue, Director
Meat & Poultry Inspection Division
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

-APPEAL-

If you file a contested case petition, it must be in writing and in the form prescribed by G.S. § 150B-23. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-1001

Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Process Agent and General Counsel
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Dr. Beth Yongue
Director, Meat & Poultry Inspection Division

MEY:dm

Attachments: Assessment Document
CC: Mr. Christopher McLennan, Assistant Attorney General
Mr. Joe Reardon, Assistant Commissioner
Ms. Tina Hlabse, General Counsel

STATE OF NORTH CAROLINA
COUNTY OF PENDER

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE & CONSUMER SERVICES
MEAT & POULTRY INSPECTION DIVISION

IN THE MATTER OF)
MR. VIC SWINSON)
MRS. TERESA SWINSON)
WELLS PORK AND BEEF, INC.) N.C.G.S. §§ 106-549.23(3) AND
)
)

Acting pursuant to North Carolina General Statutes § 106-549.35(c), Dr. Beth Yongue, Director, Meat and Poultry Inspection Division (M.P.I.D.) of North Carolina Department of Agriculture and Consumer Services ("N.C.D.A. & C.S.") makes the following:

I. FINDINGS OF FACTS:

- A. On September 19, 2019, information was received by the North Department of Agriculture and Consumer Services (N.C.D.A. & C.S.), Meat and Poultry Inspection Division (M.P.I.D), Food Compliance Officer Melanie Pollard (hereinafter CO Pollard) from a M.P.I.D. Inspector alleging that Wells Pork and Beef, Inc., 750 Croomsbridge Road, Burgaw, North Carolina, 28425 was using and selling non-inspected pork skins to the general public.
- B. On September 20, 2019, N.C.D.A. & C.S., M.P.I.D., CO Pollard visited Wells Pork and Beef, Inc. to perform a planned compliance review and investigate the above-mentioned complaint.
- C. At the time, Wells Pork & Beef, Inc. operated under U.S.D.A. Inspection as a Slaughtering Facility, Est. # M39876, under U.S.D.A. Inspection as a Meat Processing Plant, Est. # M35866 and was also permitted as a meat market and caterer facility under the Pender County Environmental Health Services.
- D. CO Pollard observed and photographed consumer size packages of misbranded/non-inspected cooked pork skins that did not contain the N.C.D.A. (State) or U.S.D.A. (Federal) mark of inspection or the required labeling being offered for sale to the general public. CO Pollard also observed partial words of "Not for Sale" stamped on the cooked pork skins that were in the bags.
- E. On September 20, 2019, an estimated eight (8) pounds (sixteen (16) clear plastic bags) of misbranded/non-inspected cooked pork skins were N.C. Detained.
- F. On September 20, 2019, CO Pollard spoke with Ms. Cindy Bullman who identified herself as the manager of Wells Pork and Beef, Inc.
- G. Ms. Bullman stated in a signed statement dated September 20, 2019, that the facility used fresh raw pork skins that derived from pigs that were custom slaughtered and stamped "Not for Sale" at Wells Slaughter House (U.S.D.A. Est. # M39876), 750 Croomsbridge Road, Burgaw, North Carolina, 28425.

- H. The custom slaughtered pigs stamped “Not for Sale” were then transported to Wells Pork & Beef Processing for further processing under their U.S.D.A. custom processing operations.
- I. The fresh raw pork skins that derived from the custom slaughter pigs (stamped “Not for Sale”) were in-turn cooked on September 14, 17 and 18, 2019 in the catering kitchen at Wells Pork & Beef, Inc., which is inspected by the Pender County Environmental Health Services and in turn offered for sale to the general public in their retail area.
- J. The misbranded/non-inspected bags of cooked pork skins were packaged in consumer size plastic bags that contained the product name, ingredient statement but did not contain a N.C.D.A. (State) or U.S.D.A. (Federal) mark of inspection.
- K. Ms. Cindy Bullman, manager of Wells Pork & Beef, Inc., stated that in a signed statement dated September 20, 2019, that Wells Pork & Beef, Inc. processed, stored, offered for sale and sold the misbranded/non-inspected packages of cooked pork skins to the general public for approximately one (1) week.
- L. On September 20, 2019, approximately eight (8) pounds of the N.C. Detained packages of misbranded/non-inspected cooked pork skins were voluntarily destroyed by Ms. Cindy Bullman after signing form C & E 3a (Voluntary Destruction of Detained Product).
- M. On September 20, 2019, Wells Pork & Beef, Inc. was issued an on-site cease and desist letter for the processing, storing, offering for sale and selling of misbranded/non-inspected meat products to the general public.
- N. On September 20, 2019, upon further investigation and interviewing Ms. Cindy Bullman, manager of Wells Pork & Beef, Inc., it was revealed that the pigs that were custom slaughtered at Wells Slaughter House (U.S.D.A. Est. # M9876) and identified as “Not for Sale” were transported to Wells Pork & Beef Processing (U.S.D.A. Est # M35866) for custom processing under U.S.D.A. custom processing operations.
- O. The fresh pork skins, which were stamped “Not for Sale” from the processed pig carcasses, were not returned to the customer and were placed in clear plastic bags and stored in the walk-in cooler and due to the individual owning the pig did not want the fresh pork skins, the establishment did not follow the correct procedures by denaturing and properly disposing of the “Not for Sale” product and in turn the “Not for Sale” fresh pork skins were provided to the Wells Pork & Beef, Inc. County Inspected facility where they were further processed by cooking, packaging and offering them for sale in the retail area.
- P. On February 3, 2011, Wells Pork & Beef, Inc. was found to be processing, transporting, storing, offering for sale and selling misbranded meat products to the general public in violation of the North Carolina Compulsory Meat Inspection Law, N.C.G.S. § 106-49.23.
- Q. On February 24, 2011, Wells Pork & Beef, Inc. was issued a Notice of Warning (NOW) from the North Carolina Department of Agriculture, Meat and Poultry Inspection Division for the violation of the North Carolina Compulsory Meat Inspection Law, N.C.G.S. § 106-549.23.

- R. On March 5, 2010, Wells Pork & Beef, Inc. was found to be processing, transporting, storing, offering for sale and selling misbranded meat products and applying a U.S.D.A. mark of inspection (Est. # M38566) without authorization to the general public in violation of the North Carolina Compulsory Meat Inspection Law, N.C.G.S. § 106-49.23.
- S. On May 10, 2010, Wells Pork & Beef, Inc. was issued a Notice of Warning (NOW) from the North Carolina Department of Agriculture, Meat and Poultry Inspection Division for the violation of the North Carolina Compulsory Meat Inspection Law, N.C.G.S. § 106-549.23.

II. CONCLUSIONS OF LAW

- A. Mr. Vic & Mrs. Teresa Swinson, owner/operator of Wells Pork & Beef, Inc., was found to be processing, storing, offering for sale and selling misbranded/non-inspected meat products to the general public in violation of N.C.G.S. §§106-549.23(3) and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under N.C.G.S. § 106.549.35(c).
- B. The Commissioner of Agriculture, pursuant to N.C.G.S §106.549.35(c), has the authority to assess civil penalties in this matter. This authority has been delegated to Dr. Beth Yongue, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to N.C.G.S. § 143B-10(a).

III. DECISION

- A. As required by N.C.G.S. §106-549.35(c), in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of N.C.G.S. § 106-549.23(3)

Accordingly, Mr. Vic and Mrs. Teresa Swinson/Wells Pork & Beef, Inc. is assessed a civil penalty of:

\$2,000.00 for violating N.C.G.S. § 106-549.23(3) – Articles Required to be Inspected

\$2,000.00 TOTAL AMOUNT ASSESSED.

January 7, 2020
Date

Dr. Beth Yongue
Dr. Beth Yongue
Director, Meat and Poultry Inspection Division