

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE ADMINISTRATOR  
FOOD SAFETY AND INSPECTION SERVICE

In re:	)	
	)	
Howard Petersen and	)	
Bancroft Meat Processors, Inc.	)	STIPULATION AND
	)	CONSENT AGREEMENT
Respondents.	)	

This administrative action was instituted by the delivery of a letter (Notice of Ineligibility) on or about February 4, 2005, to Howard Petersen, and Bancroft Meat Processors, Inc. hereafter "Respondents", notifying them that they were no longer eligible for custom exemption under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (PPIA) (21 U.S.C. 453 et seq.). The notice of ineligibility was effective upon receipt, and resulted from Respondents' alleged failure to maintain the facility in a sanitary manner.

The aforementioned action was instituted by the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA), hereafter "Complainant", in accordance with Section 23(a) of the FMIA (21 U.S.C. 623(a)), Section 15 (a) of the PPIA (21 U.S.C. 464 (a)), Part 381 of the PPIA (9 C.F.R. 381.10 et seq.) and Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. 303.1 et seq.).

The Parties have agreed that this administrative proceeding should be terminated by the execution of the Agreement set forth below and have agreed to the following stipulations:

1. For the purpose of this Stipulation and the provisions of this Agreement only, Respondents admit the jurisdictional allegations of the above-mentioned notification

and both parties waive:

- (a) any further procedural steps in this proceeding;
  - (b) any requirement that the Stipulation and Consent Agreement in this proceeding contains findings and conclusions with respect to fact or law, as well as to reason or basis thereof; and
  - (c) all rights to seek further judicial review or to otherwise challenge or contest the validity of this Stipulation and Consent Agreement.
2. This Stipulation and Consent Agreement is for settlement purposes in this proceeding only, and does not otherwise constitute an admission or denial by Respondents that they have violated any Federal regulation or statute.
  3. Respondents waive any action against USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. 504 et seq.) for fees or other expenses incurred in connection with this proceeding.

#### FINDINGS OF FACT

1. Bancroft Meat Processors, Inc., is now and at all times material was a corporation operating a custom exempt meat slaughtering and processing facility at 311 Main Street, Bancroft, Nebraska 68004.
2. Mr. Howard Petersen is now and at all times material was the owner and operator of Bancroft Meat Processors, Inc.
3. Bancroft Meat Processors, Inc. and Howard Petersen are now and at all times material were operating under custom exemption eligibility pursuant to Section 23(a) of the FMIA (21 U.S.C. 623(a)), Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. 303.1 et seq.), and Section 15(a) of the PPIA (21 U.S.C. 464(a)), and Part 381 of the Poultry Products Inspection Regulations (9 C.F.R. 381.10 et seq.).

4. On or about October 8, 2004, and other dates, Respondents allegedly violated the FMIA and PPIA by failing to maintain its custom exempt facility in a sanitary manner and comply with other applicable requirements as required by 9 C.F.R. 303.1 et seq. and 9 C.F.R. 381.10 et seq.
5. In a letter delivered on or about February 4, 2005, Respondents were notified that they were no longer eligible for custom exemption eligibility under the FMIA and PPIA as required by 9 C.F.R. 303.1, 381.10, and Part 416.

#### CONCLUSION

Inasmuch as the parties have agreed to the provisions set forth in the following Agreement in disposition of this proceeding, such Agreement will be issued.

#### AGREEMENT

Meat and poultry exemption privileges granted under 9 C.F.R. 303.1 and 9 C.F.R. 381.10 promulgated under the Federal Meat Inspection Act (FMIA) (21 U.S.C. § 623) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 464) are terminated from Howard Petersen, Bancroft Meat Processors, Inc. and its owners, officers, directors, partners, successors, affiliates, or assigns, directly or through any corporate device, for a period of two (2) years. The termination of meat exemption privileges shall be held in abeyance and custom exemption privileges shall be provided to Respondent, pursuant to Section 23(a) of the FMIA (21 U.S.C. 623(a)), Section 15(a) of the PPIA (21 U.S.C. 464(a)), 9 C.F.R. 303.1, 381.10 and Part 416, provided all regulatory requirements and the additional conditions set forth in this Agreement are met.

#### Conditions

1. Respondents have demonstrated, prior to reinstatement of eligibility to operate as a custom exempt meat slaughtering and meat and poultry processing facility,

compliance with the FSIS statutory and regulatory requirements upon review and examination of its written operational procedures and of the physical and sanitary conditions of Respondent's facility. Prior to resumption of exemption privileges, Respondents' facility shall receive an "acceptable" rating in every category of FSIS' "Exempt Establishment Review Report," FSIS Form 5930-1.2. Future reviews will be conducted at the discretion and frequency specified by FSIS officials.

2. Respondents shall, prior to resumption of exemption privileges, make facility repairs and/or improvements necessary to maintain sanitary conditions, as required by 9 C.F.R. 303.1, 381.10, and Part 416, including but not limited to:
  - a) all food-contact surfaces, including food-contact surfaces of utensils and equipment, must be clean and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of product;
  - b) ventilation adequate to control odors, vapors, and condensation to the extent necessary to prevent adulteration of product and the creation of insanitary conditions must be provided;
  - c) effective floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor; and
  - d) maintenance of overhead structures to include ceilings, rails, etc. in a manner to prevent the presence of rust or other insanitary conditions.
3. Respondents shall, prior to resumption of exemption privileges, develop, implement and maintain a written sanitation program that includes addressing grounds and facility, equipment and utensils, sanitary operations, employee hygiene, pre-

operational and operational sanitation, monitoring activities, and recordkeeping in accordance with 9 C.F.R. Part 416. Respondents will conduct the sanitation program on a daily and on-going basis to ensure sanitary conditions and to prevent adulteration in accordance with 9 C.F.R. Part 416.

4. Respondents shall maintain establishment grounds and facilities, equipment and utensils, sanitary operations, and employee hygiene, as required by 9 C.F.R. 303.1, 381.10, and Part 416. Respondents shall monitor and record sanitation deficiencies on a sanitation report, take corrective and preventive actions in accordance with the regulations as stated in 9 C.F.R. Part 416 to ensure sanitation, and make these records available to FSIS for review and/or copying upon request.
5. Respondents shall, prior to resumption of exemption privileges, establish a written pest management program, implemented and maintained by an independent pest control service, to prevent the harborage and breeding of pests on the grounds and within the facility consistent with 9 C.F.R. 416.2(a) and 303.1. Respondents shall assure that (a) the pest control service reviews and services Respondents' facility and grounds on at least a monthly frequency; (b) written reports are provided by the pest control service to the Respondents detailing its findings and recommendations of its review; (c) the report recommendations are implemented in a timely fashion; and (d) its pest management program and servicing firm's written findings, recommendations, and reports are available to FSIS personnel for review and for copying immediately upon request.
6. Respondents shall monitor and maintain the structural integrity of its facility and document needed repairs and corrective actions taken to address structural and/or

mechanical repairs and/or improvements and shall make these records available to FSIS for review and/or copying upon request.

7. (a) Respondents shall immediately take action to (i) ensure that all cattle slaughtered or processed at its facility are eligible for slaughter or processing and are not adulterated and (ii) that Specified Risk Materials (SRM) are removed from any cattle slaughtered or processed at its facility. (b) Respondents shall, within fifteen (15) days from the effect of this Agreement, develop, implement and maintain written procedures to prevent the custom slaughtering or processing of non-ambulatory disabled cattle (downers). Respondents shall train and educate its employees in these procedures, post the procedures in an appropriate, visible area, and make the procedures and any records thereof available to FSIS for review and/or copying immediately upon request.
8. Respondents shall (a) ensure that product does not become adulterated during processing, handling, storage, loading and unloading, or during transportation; (b) ensure that all slaughtered and processed animal carcasses and further processed meat or meat food products and poultry products are properly marked, labeled and packaged, (c) ensure that custom prepared products are plainly marked "Not for Sale" and kept separate and apart from any meat or poultry products held for sale and (d) maintain records as required by 9 C.F.R. 303.1, 318.10 and Part 416.
9. Respondents shall, prior to resumption of operations, designate one person and an alternate who shall have overall responsibility for (a) developing, implementing, and maintaining the sanitation and other requirements of 9 C.F.R. 303.1, 381.10, and Part 416 and (b) compliance with the conditions of this Agreement.

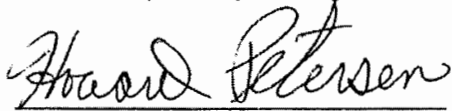
10. Within thirty (30) days from the effective date of this Agreement, Respondents' employees shall complete training instruction in sanitation and sanitary dressing procedures. Respondents shall maintain written records of all completed instruction. Respondents shall make the training materials and records available to FSIS personnel for review and/or copying immediately upon request.
11. Respondents shall not (a) commit any felony or fraudulent act; (b) violate any section of the FMIA, PPIA, Federal, State, or local statute or regulation involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated or misbranded meat product; or (c) assault, intimidate, impede, or interfere with, or threaten to assault, intimidate, impede, or interfere with any representative or designee of the Secretary of Agriculture.
12. Respondents shall make all records required to be maintained by the FMIA, PPIA, or regulations issued thereunder or required by this Agreement available to FSIS personnel for review and/or copying immediately upon request.
13. Respondents shall fully and completely cooperate with any USDA or FSIS investigation, inquiry, review or examination of Respondents' (a) facility, products, inventory or records, (b) compliance with the FMIA, PPIA, or the regulations issued thereunder, or (c) compliance with this Agreement.
14. The Administrator, FSIS, may summarily terminate custom exemption privileges from Respondents upon a determination by the Director, Evaluation and Enforcement Division, Office of Program Evaluation, Enforcement and Review, FSIS, that Respondents have failed to comply with 9 C.F.R. 303.1, 381.10, and/or Part 416 or any requirement of this Agreement. It is acknowledged that Respondents retain the

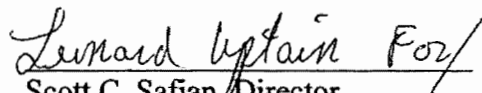
right to request an expedited hearing pursuant to the Adopted Rules of Practice concerning any violation alleged as the basis for a summary termination of custom exemption privileges.

15. The provisions of this Agreement shall be applicable for two (2) years and become effective when signed by all parties.

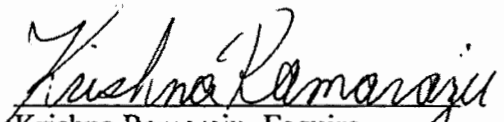
16. Nothing in this Agreement shall preclude any regulatory or administrative actions, or the referral of any matter to any agency for possible criminal, civil, or administrative proceedings.

If any provision of this Agreement is declared invalid, such declaration shall not affect the validity of any other provision herein.

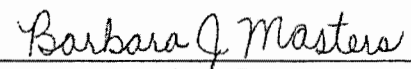
  
Mr. Howard Petersen, President for  
Bancroft Meat Processors, Inc.  
Bancroft, Nebraska

  
Scott C. Safian, Director  
Evaluation and Enforcement  
Division, OPEER, FSIS, USDA

  
Mr. Howard Petersen

  
Krishna Ramaraju, Esquire  
Office of the General Counsel, USDA  
Attorney for Complainant

Issued this 7<sup>th</sup> day of April, 2005

  
Dr. Barbara J. Masters  
Acting Administrator  
Food Safety and Inspection Service



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE ADMINISTRATOR  
FOOD SAFETY AND INSPECTION SERVICE

In re: )  
Howard Petersen and ) AMENDED  
Bancroft Meat Processors, Inc. ) STIPULATION AND  
) CONSENT AGREEMENT  
)  
Respondents )

This administrative action was instituted by the delivery of a letter (Notice of Ineligibility) on or about February 4, 2005, to Howard Petersen, and Bancroft Meat Processors, Inc. hereafter "Respondents", notifying them that they were no longer eligible for custom exemption under the Federal Meat Inspection Act (FMIA) (21 U.S.C. § 601 et seq.) or the Poultry Products Inspection Act (PPIA) (21 U.S.C. § 453 et seq.). The notice of ineligibility was effective upon receipt, and resulted from Respondents' alleged failure to maintain the facility in a sanitary manner. A Notice of Intent to Summarily Terminate said exemption pursuant to the Consent Agreement and Decision filed in this matter on April 15, 2005, was issued to Respondents on or about February 16, 2007.

The aforementioned action was instituted by the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA), hereafter "Complainant", in accordance with Section 23(a) of the FMIA (21 U.S.C. § 623(a)), Section 15 (a) of the PPIA (21 U.S.C. § 464 (a)), Part 381 of the PPIA (9 C.F.R. § 381.10 et seq.) and Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. § 303.1 et seq.).

The Parties have agreed that this administrative proceeding should be terminated by the execution of the Agreement set forth below and have agreed to the following stipulations:

1. For the purpose of this Stipulation and the provisions of this Agreement only, Respondents admit the jurisdictional allegations of the above-mentioned notification and both parties waive:

(a) any further procedural steps in this proceeding;

(b) any requirement that the Stipulation and Consent Agreement in this proceeding contains findings and conclusions with respect to fact or law, as well as to reason or basis thereof; and

(c) all rights to seek further judicial review or to otherwise challenge or contest the validity of this Stipulation and Consent Agreement.

2. This Stipulation and Consent Agreement is for settlement purposes in this proceeding only, and does not otherwise constitute an admission or denial by Respondents that they have violated any Federal regulation or statute.

3. Respondents waive any action against USDA and its employees under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees or other expenses incurred in connection with his proceeding, and waive any other action against the USDA and its employees in connection with the facts and events that gave rise to this proceeding.

#### FINDINGS OF FACT

1. Bancroft Meat Processors, Inc., is now and at all times material was a corporation operating a custom exempt meat slaughtering and processing facility at 311 Main Street, Bancroft, Nebraska 68004.

2. Mr. Howard Petersen is now and at all times material was the owner and operator of Bancroft Meat Processors, Inc..
3. Bancroft Meat Processors, Inc. and Howard Petersen are now and at all times material were operating under custom exemption eligibility status pursuant to Section 23(a) of the FMIA (21 U.S.C. § 623(a)), Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. § 303.1 et seq.), and Section 15(a) of the PPIA (21 U.S.C. § 464(a)), and Part 381 of the Poultry Products Inspection Regulations (9 C.F.R. § 381.10 et seq.).
4. On or about October 8, 2004, and other dates, Respondents allegedly violated the FMIA and PPIA by failing to maintain its custom exempt facility in a sanitary manner and comply with other applicable requirements as required by 9 C.F.R. § 303.1 et seq. and 9 C.F.R. § 381.10 et seq..
5. In a letter delivered on or about February 4, 2005, Respondents were notified that they were no longer eligible for custom exemption eligibility under the FMIA and PPIA as required by 9 C.F.R. §§ 303.1, 381.10, and 416.
6. On or about January 27, 2006, April 19, 2006, December 19, 2006, and other dates, FSIS officials observed and documented continuing repetitive serious deficiencies in violation of statutory and regulatory requirements, and the terms of the Consent Agreement at Respondent Corporation's facility.
7. The parties have jointly agreed, in lieu of FSIS summarily terminating Respondent Corporation's custom exempt status, to Amend the previous Stipulation and Consent Agreement filed in this case on April 7, 2005.

## CONCLUSION

Inasmuch as the parties have agreed to the provisions set forth in the following Amended Stipulation and Consent Agreement in disposition of this proceeding, such Agreement will be issued.

## AGREEMENT

Meat and poultry custom exempt status granted under 9 C.F.R. § 303.1 and 9 C.F.R. § 381.10, promulgated under section 23 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. § 623) and under section 15 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. § 464) are terminated from Howard Petersen, Bancroft Meat Processors, Inc. and its owners, officers, directors, partners, successors, affiliates, or assigns, directly or through any corporate device, for a period of eighteen (18) months. The termination of meat and poultry custom exempt status shall be held in abeyance, beginning on April 15, 2007, and custom exempt status shall be provided to Respondent, pursuant to Section 23(a) of the FMIA (21 U.S.C. § 623(a)), Section 15(a) of the PPIA (21 U.S.C. § 464(a)), 9 C.F.R. §§ 303.1, 381.10 and 416, provided all regulatory requirements and the additional conditions set forth in this Amended Stipulation and Consent Agreement are met.

## CONDITIONS

1. Respondents must demonstrate compliance with the FSIS statutory and regulatory requirements upon review and examination of its written operational procedures and of the physical and sanitary conditions of Respondent's facility. Future reviews will be conducted at the discretion and frequency specified by FSIS officials.

2. Respondents shall make facility repairs and/or improvements necessary to maintain sanitary conditions, as required by 9 C.F.R. §§ 303.1, 381.10, and 416, including but not limited to:

- a) all food-contact surfaces, including food-contact surfaces of utensils and equipment, must be clean and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of product;
- b) ventilation adequate to control odors, vapors, and condensation to the extent necessary to prevent adulteration of product and the creation of insanitary conditions must be provided;
- c) effective floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor;
- d) maintenance of overhead structures to include ceilings, rails, etc. in a manner to prevent the presence of rust or other insanitary conditions;
- e) replacement of edible and/or inedible product barrels;
- f) replacement of edible product tote pans, and
- g) repairing, resurfacing, or otherwise maintaining cutting board surfaces.

3. Respondents shall revise, implement and maintain a written sanitation program that addresses the grounds and facility, equipment and utensils, sanitary operations, employee hygiene, pre-operational and operational sanitation, monitoring activities, and recordkeeping in accordance with 9 C.F.R. Part 416. Respondents will conduct the sanitation program on a daily and on-going basis to ensure sanitary conditions and to prevent adulteration in accordance with 9 C.F.R. Part 416.

4. Respondents shall maintain establishment grounds and facilities, equipment and utensils, sanitary operations, and employee hygiene, as required by 9 C.F.R. §§ 303.1, 381.10, and 416. Respondents shall monitor and record sanitation deficiencies on their daily sanitation report form, implement and document corrective and preventive actions in accordance with the regulations as stated in 9 C.F.R. Part 416 to ensure sanitation, and make these records available to FSIS for review and/or copying upon request.

5. Respondents shall continue their written pest management program, implemented and maintained by an independent pest control service, to prevent the harborage and breeding of pests on the grounds and within the facility consistent with 9 C.F.R. §§ 416.2(a) and 303.1. Respondents shall assure that (a) the pest control service reviews and services Respondents' facility and grounds on at least a monthly frequency; (b) written reports are provided by the pest control service to the Respondents detailing its findings and recommendations of its review; (c) the report recommendations are implemented in a timely fashion; and (d) its pest management program and servicing firm's written findings, recommendations, and reports are available to FSIS personnel for review and for copying immediately upon request.

6. Respondents shall monitor and maintain the structural integrity of its facility and document needed repairs and document corrective actions taken to address structural and/or mechanical repairs and/or improvements and shall make these records available to FSIS for review and/or copying upon request.

7. Respondents shall immediately take action to (i) ensure that all cattle slaughtered or processed at its facility are eligible for slaughter or processing and are not

adulterated and (ii) that Specified Risk Materials (SRM) are removed from any cattle slaughtered or processed at its facility.

8. Respondents shall continue to implement and maintain written procedures to prevent the custom slaughtering or processing of non-ambulatory disabled cattle (downers).

Respondents shall train and educate its employees in these procedures, provide refresher training as frequently as may be required to its employees and to any future employees, post the procedures in an appropriate visible area, and make the procedures and any records thereof available to FSIS for review and/or copying immediately upon request.

9. Respondents shall (a) ensure that product does not become adulterated during processing, handling, storage, loading and unloading, or during transportation; (b) ensure that all slaughtered and processed animal carcasses and further processed meat or meat food products and poultry products are properly marked, labeled and packaged, (c) ensure that custom prepared products are plainly marked "Not for Sale" and kept separate and apart from any meat or poultry products held for sale and (d) maintain records as required by 9 C.F.R. §§ 303.1, 318.10 and 416.

10. Respondents shall continue the designation of one person and an alternate who shall have overall responsibility for (a) revising, implementing, and maintaining the sanitation and other requirements of 9 C.F.R. §§ 303.1, 381.10, and 416 and (b) compliance with the conditions of this Amended Agreement.

11. Within ten (10) days from the effective date of this Agreement, Respondents' employees shall complete training in sanitary cleaning procedures of Respondent's facility, equipment and utensils as required by 9 C.F.R. §§ 303.1, 381.10, and 416, including but not limited to:

- a) all food-contact surfaces, including food-contact surfaces of utensils and equipment;
- b) non-food-contact surfaces of facilities, equipment, and utensils used in the operation of the establishment; and
- c) receptacles used for storing inedible material must be of such material and construction that their use will not result in the creation of unsanitary conditions.

Respondents shall maintain written records of all completed training which has been provided to employees.

12. Respondents shall not (a) commit any felony or fraudulent act; (b) violate any section of the FMIA, PPIA, Federal, State, or local statute or regulation involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated or misbranded meat product; or (c) assault, intimidate, impede, or interfere with, or threaten to assault, intimidate, impede, or interfere with any representative or designee of the Secretary of Agriculture.

13. Respondents shall make all records required to be maintained by the FMIA, PPIA, or regulations issued thereunder or required by this Amended Stipulation and Consent Agreement available to FSIS personnel for review and/or copying immediately upon request. All records shall be maintained by Respondents for a period of six (6) months.

14. Respondents shall fully and completely cooperate with any USDA or FSIS investigation, inquiry, review or examination of Respondents' (a) facility, products, inventory or records, (b) compliance with the PMIA, PPIA, or the regulations issued thereunder, or (c) compliance with this Amended Stipulation and Consent Agreement.



15. The Administrator, FSIS, may summarily terminate custom exempt status from Respondents upon a determination by the Director, Evaluation and Enforcement Division, Office of Program Evaluation, Enforcement and Review, FSIS, that Respondents have failed to comply with 9 C.F.R. §§ 303.1, 381.10, and/or 416 or any requirement of this Amended Stipulation and Consent Agreement. It is acknowledged that Respondents retain the right to request an expedited hearing pursuant to the Adopted Rules of Practice concerning any violation alleged as the basis for a summary termination of custom exemption privileges.

16. The provisions of this Amended Stipulation and Consent Agreement shall be applicable for eighteen (18) months and become effective on April 15, 2007.

17. Nothing in this Amended Stipulation and Consent Agreement shall preclude any regulatory or administrative actions, or the referral of any matter to any agency for possible criminal, civil, or administrative proceedings.

If any provision of this Amended Stipulation and Consent Agreement is declared invalid, such declaration shall not affect the validity of any other provision herein.

Howard Petersen

Mr. Howard Petersen, President, for  
Bancroft Meat Processors, Inc.  
Bancroft, Nebraska

SALE

Scott C. Safian, Director  
Evaluation and Enforcement Div.  
OPEER, FSIS, USDA

Howard Petersen

Mr. Howard Petersen  
On behalf of himself

Krishna Ramaraju

Krishna Ramaraju, Esquire  
Office of the General Counsel, USDA  
Attorney for Complainant

Issued this 23<sup>rd</sup>, day of April, 2007

for David P. Goldman  
David P. Goldman, M. D., M. P. H.  
Acting Administrator  
Food Safety and Inspection Service

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE FOOD SAFETY AND INSPECTION SERVICE

In re: ) CUSTOM EXEMPT STATUS  
)  
Mr. Howard Petersen and )  
Bancroft Meat Processors, Inc. )  
) SUMMARY TERMINATION of  
) ELIGIBILITY for CUSTOM EXEMPT  
) STATUS  
Respondents )  
)

This is a FINAL SUMMARY TERMINATION OF ELIGIBILITY for CUSTOM EXEMPT STATUS issued to Mr. Howard Petersen, and Bancroft Meat Processors, Inc., respondents, by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA) in accordance with the Adopted Rules of Practice (AROP) for custom exempt status under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 et seq.).

This FINAL SUMMARY TERMINATION OF ELIGIBILITY for CUSTOM EXEMPT STATUS is based on a written Notice of Summary Termination of Custom Eligibility (hereinafter "Summary Termination") issued by the Director of the Evaluation and Enforcement Division, OPEER, FSIS, to the respondents pursuant to section 15 of the Conditions of the Amended Stipulation and Consent Agreement (Amended Agreement) issued on April 23, 2007, and section 2 of the AROP for custom exempt status. The issued Complaint, dated July 19, 2007, was personally served on the respondents on July 24, 2007, and presented allegations of fact which constituted the basis for the summary termination of respondents' custom exempt status and

thereby constitute the basis for issuing this final summary termination. The issued Summary Termination enumerated the official reports and other reliable information that clearly showed that the respondents have continually failed to comply with the requirements of the Amended Agreement, as well as of the custom exempt requirements of the FMLA and the PPIA and therefore the Director of the Evaluation and Enforcement Division, OPEER, FSIS, determined that the respondents should be summarily terminated of custom exempt status.

The issued Summary Termination informed the respondents that, pursuant to the AROP, they had 20 days from the date of service of the Summary Termination to respond to the Complaint by means of a written answer and to request an expedited oral hearing.

As of the date of this Final Termination of Eligibility for Custom Exempt Status, respondents have failed to request an expedited hearing. Pursuant to sections 3(c) and 7(a) of the AROP, respondents' failure to file an answer to the Complaint is deemed an admission of all of the material allegations of fact in the Complaint and a waiver of an oral hearing. Thus, the respondents, by their failure to file an answer to the Complaint, have admitted all of the material allegations of the Complaint. Accordingly, pursuant to section 15 of the Amended Agreement and section 6 of the AROP, the FSIS Administrator issued a Tentative Summary Termination of Eligibility for Custom Exempt Status, adopting as tentative findings of facts, the material allegations in the Summary Termination. Respondents received this Tentative Summary Termination of Eligibility for Custom Exempt Status on November 13, 2007. Respondents never filed any response to the Tentative Summary Termination of Eligibility for Custom Exempt Status. Accordingly, the findings tentatively adopted in the Tentative Summary Termination of Eligibility for Custom Exempt Status are hereby adopted as final.

### Final Findings of Fact

1. Bancroft Meat Processors, Inc., was at all times material a corporation operating a custom exempt meat slaughtering and processing facility at 311 Main Street, Bancroft, Nebraska 68004.
2. Mr. Howard Petersen was at all times material the owner and operator of Bancroft Meat Processors, Inc.
3. Bancroft Meat Processors, Inc. and Howard Petersen were at all times material operating under custom exemption eligibility status pursuant to Section 23(a) of the FMIA (21 U.S.C. § 623(a)), Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. § 303.1 et seq.), and Section 15(a) of the PPIA (21 U.S.C. § 464(a)), and Part 381 of the Poultry Products Inspection Regulations (9 C.F.R. § 381.10 et seq.).
4. On or about October 8, 2004, and other dates, Respondents violated the FMIA and PPIA by failing to maintain its custom exempt facility in a sanitary manner and comply with other applicable requirements as required by 9 C.F.R. § 303.1 et seq. and 9 C.F.R. § 381.10 et seq.
5. In a letter delivered on or about February 4, 2005, Respondents were notified that they were no longer eligible for custom exemption eligibility under the FMIA and PPIA as required by 9 C.F.R. 303.1, 381.10, and Part 416.
6. On or about April 7, 2005, meat and poultry exemption privilege was provided to Respondents in accordance to the terms of a Stipulation and Consent Agreement dated April 7, 2005.
7. On or about August 3, 2005, FSIS officials observed and documented critical deficiencies to include fecal material adulterating an exempt carcass, and failure to label exempt product as Not for Sale, in violation of statutory and regulatory requirements, and the terms of the Consent Agreement at Respondent Corporation's facility.
8. On August 19, 2005, FSIS issued a Notice of Warning to Respondents which informed them of the recurring sanitation, facility, and labeling and marking deficiencies. The letter also

informed Respondents that future incidents of this nature may constitute a breach of the Consent Agreement and result in the summary termination of their custom exempt privilege.

9. On or about January 27, 2006, April 19, 2006, December 19, 2006, and other dates, FSIS officials observed and documented continuing repetitive serious deficiencies in violation of statutory and regulatory requirements, and the terms of the Consent Agreement at Respondent Corporation's facility.

10. The parties jointly agreed, in lieu of FSIS summarily terminating Respondent Corporation's custom exempt status, to Amend the previous Consent Agreement filed on April 7, 2005.

11. On or about April 23, 2007, FSIS and Respondents jointly agreed to the terms of an Amended Stipulation and Consent Agreement.

12. On or about June 20, 2007, FSIS officials observed and documented continuing serious sanitation deficiencies in violation of statutory and regulatory requirements, and the terms of the Amended Consent Agreement at Respondent Corporation's facility.

13. In a letter hand-delivered on July 24, 2007, Respondents were notified by FSIS that exemption privileges were immediately summarily terminated in accordance with the provisions of the Amended Consent Agreement. Respondents were informed they were no longer eligible for custom exemption eligibility under the FMIA and PPIA as specified in 9 C. F. R. 303.1, 381.10, and Part 416.

#### Conclusion

By reason of the Final Findings of Fact set forth above, the respondents, Mr. Howard Petersen and Bancroft Meat Processors, Inc., have violated section 23(a) of the FMIA (21 U.S.C. 623(a)) and/or section 15(c) of the PPIA (21 U.S.C. 464(c)), as well as the applicable regulatory requirements of the FMIA regulations, namely, 9 C.F.R. Parts 303, 381.10, and 416. Therefore, the respondents are ineligible for custom exempt status under the FMIA and PPIA and the following Final Decision and Order is issued.

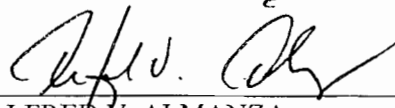
Final Decision and Order

The custom exempt status and privileges of the respondents, Mr. Howard Petersen and Bancroft Meat Processors, Inc., under the FMIA and the PPIA, are hereby permanently terminated. Respondents, Howard Petersen and Bancroft Meat Processors, Inc., cannot conduct at any time any operations of any kind pursuant to or under the custom exempt status and privileges of the FMIA and PPIA.

This Final Decision and Order shall have the same force and effect as if entered after a full hearing and shall be final upon service of this Final Decision and Order upon the respondents and the complainant.

Done at Washington, D.C.,

this 15 day of February, 2008

  
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ALFRED W. ALMANZA  
ADMINISTRATOR  
FOOD SAFETY and INSPECTION SERVICE