

## **Horse Slaughter Battle Continues in New Mexico Federal Courts**

\*This article is not a substitute for the advice of an attorney.\*

On November 1, 2013, federal Judge Christina Armijo dismissed a lawsuit and denied an injunction sought by animal rights groups, including the Humane Society of the United States, that would have prevented plants in New Mexico and Missouri from slaughtering horses. Shortly thereafter, the United States Court of Appeals for the Tenth Circuit issued a temporary restraining order preventing the plants from beginning operations.

### **Background**

Under federal law, the Food Safety Inspection Service ("FSIS") must inspect all species, including horses, before they are allowed to be slaughtered and the meat sold in commerce. Without this inspection, slaughter houses may not operate. In December 2011, Valley Meat of Roswell, New Mexico and Responsible Transportation of Sigourney, Iowa, filed an application for inspection of its facility so that it could begin the slaughter of horses. The applications were granted and inspections ordered. In January 2013, Rains Natural Meats of Gallatin, Missouri, filed a similar application.

At that point, a group of plaintiffs filed suit in federal court seeking an injunction from the court to prevent the FSIS from performing any horse slaughter inspections until the USDA had conducted an environmental impact study under the National Environmental Policy Act ("NEPA"). The plaintiffs' theory was that because the FSIS implemented a new drug residue testing plan applicable to all horse slaughter plants, but did not conduct an environmental impact study, the FSIS violated NEPA and should be prohibited from conducting any inspections until the proper study was conducted. Thus, plaintiffs argued that because there was no environmental impact statement, there could be no inspections, and because there were no inspections, there could be no horse slaughter.

In August 2013, the Court granted a temporary restraining order for the plaintiffs, thereby barring the inspections from going forward and in September, the Court prohibited inspectors from being dispatched to the horse slaughter plants. This order was set to expire on October 31, 2013.

### **November 1, 2013 District Court Decision**

On Friday, November 1, 2013, the Court denied the plaintiffs' request for a permanent injunction and dismissed the lawsuit. Specifically, Judge Armijo ruled that no environmental impact statement is required to be conducted under federal law before the FSIS may conduct inspections of proposed horse slaughter facilities. Thus, the injunction was denied and the lawsuit was dismissed with prejudice. In light of this decision, it appears that inspectors will be sent to the plants in New Mexico and Missouri.

## **Tenth Circuit Appeal**

Not surprisingly, the plaintiffs, joined by the State of New Mexico, filed an appeal to the United States Court of Appeal for the Tenth Circuit on November 4, 2013, and requested expedited consideration of this case. The Tenth Circuit ordered expedited briefing on this Motion and the briefing from both sides, which was completed on November 8, 2013.

Until it has considered the briefing, the Tenth Circuit has prohibited federal officials from dispatching inspectors or providing inspection services to horse slaughterhouse facilities in New Mexico, Missouri, and Iowa.

It is also expected that the plaintiffs and others opposed to horse slaughter, including former New Mexico governor Bill Richardson and actor Robert Redford, will also turn to the legislature and seek Congressional action to ban the practice across the country.