

The Center For Consumer Freedom®

February 29, 2008

The Honorable Bart Stupak, Chairman
The Honorable John Shimkus, Ranking Member
U.S. House Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
2125 Rayburn House Office Building
Washington, DC 20515

Via courier

Dear Chairman Stupak and Ranking Member Shimkus:

On Tuesday, February 26, a representative of the Humane Society of the United States (HSUS) gave sworn testimony that is clearly at odds with reality, and I am writing to request that your Subcommittee initiate an investigation to determine if this testimony amounts to perjury.

During a hearing titled “Contaminated Food: Private Sector Accountability,” HSUS Director of Public Health and Animal Agriculture Dr. Michael Greger testified repeatedly that the San Bernardino County District Attorney’s office instructed his organization not to release an undercover video to the public or to federal authorities.

The video in question was shot between October 7 and November 20, 2007 at the Westland/Hallmark Meat Company in Chino, California. It was not made public until January 30, 2008, nearly four months after HSUS began gathering video evidence. During the intervening months, countless livestock animals may have been subject to abuse and—more importantly—the American public was subjected to potentially contaminated meat which HSUS knew was entering the food supply.

In his testimony, Dr. Greger blamed the San Bernardino County District Attorney’s office for this time lag:

- (1) *[beginning at 1:11:10 in the archived hearing audio]* **Chmn. Stupak:** “If your investigator was at the plant in, I believe you said, the fall of 2007, why didn’t the Humane Society notify USDA’s School Lunch Program about what was happening in the plant before the end of January?”

Dr. Greger: “This investigation took over two months to complete. It was shot, he worked in the plant in October [and] November. We gave this evidence over to the local District Attorney’s office, the San Bernardino County District Attorney, and *they* asked *us* not to publicly release this information, to hold off so they could carry out their own criminal investigation into the animal cruelty that was witnessed. We complied with that request.” [*emphasis is Dr. Greger’s*]

(2) [*beginning at 1:31:43 in the archived hearing audio*] **Rep. Walden:** “So the District Attorney of San Bernardino County told you ‘Don’t tell USDA there’s a food problem here’?”

Dr. Greger: “They told us to wait on any kind of public release of this information.”

Rep. Walden: “Is that different from notifying USDA?”

Dr. Greger: “Frankly, the reason we didn’t go to USDA first is because USDA has a history of not responding to...”

Rep. Walden: “But I want to get to the point here. So the District Attorney *didn’t* tell you not to go to USDA. They just said ‘Don’t make the video public.’ Is that right?”

[...]

Dr. Greger: “They asked us to hold on to the information while they completed their investigation.”

Rep. Walden: “Did *they* notify USDA?”

Dr. Greger: “I’m not aware.”

In yesterday’s Riverside *Press-Enterprise*, reporter Ben Goad wrote that:

“San Bernardino County Deputy District Attorney Deborah Ploghaus, the lead investigator on the case, said she never made such a request [to keep the video secret].”

In the same article, San Bernardino County Assistant District Attorney Dennis Christy insisted that his office wanted the USDA involved, but “The Humane Society was reluctant and unwilling to provide that information to the USDA at that time. We believed that USDA involvement was appropriate.”

I reached Assistant D.A. Christy on the telephone last night. He told me that “I can say unequivocally that we never suggested in any way – in fact, we encouraged the HSUS to cooperate with, provide information to the U.S. Dept. of Agriculture.”

Christy also added that his office's criminal investigation was hampered, in part, by HSUS's desire to keep the USDA out of the loop: "We had some difficulty in preparing criminal charges," Christy told me, "because of delays in setting up any interview with the Humane Society investigator at which USDA officers would be present."

It is my belief that Dr. Greger misled members of your Subcommittee when offering testimony under oath. The San Bernardino County District Attorney's office disputes his sworn statements before your Subcommittee. It's also apparent that HSUS's own desire to keep the U.S. Department of Agriculture uninformed caused much of the delay in the District Attorney's criminal investigation.

More disturbing is the degree to which HSUS's preference for political sensationalism over public health exposed Americans (including countless children) to meat that may not have been fit for consumption. I implore you to help set the record straight by holding Dr. Greger accountable for his testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "David", with a long, horizontal flourish extending to the right.

David Martosko
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The Center for Consumer Freedom
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encl: Riverside *Press-Enterprise* story: "In beef recall, three agencies differ on why video's release took so long"



Inland News

In beef recall, three agencies differ on why video's release took so long



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10:00 PM PST on Wednesday, February 27, 2008

By **BEN GOAD**
Washington Bureau

WASHINGTON - A dispute over the release of video footage at the center of the largest beef recall in U.S. history underscores a rift between two organizations that work to protect the nation's animals.

And San Bernardino County authorities are stuck in the middle.

Following a two-month undercover investigation, the Humane Society of the United States released video footage late last month showing employees at a Chino slaughterhouse using forklifts, sticks and chains to force sick and injured cows to their feet for slaughter.

San Bernardino County prosecutors, who got an advance copy of the video, have arrested a pair of plant employees on suspicion of animal cruelty.

Officials from the U.S. Department of Agriculture, which oversees the inspection of cows headed for the nation's food supply, launched their own investigation of the Westland/Hallmark Meat Co.

Company officials have since shut down the plant.

Meanwhile, the USDA lambasted the Humane Society for not bringing the information to them sooner, particularly because much of the meat was headed for school cafeterias around the country. Roughly 50 million of the 143 million pounds of beef recalled in the aftermath of the tape's release went to the National School Lunch Program, according Agriculture Department estimates.

The footage, captured by an undercover Humane Society investigator who got hired at the plant, was filmed approximately between Oct. 7 and Nov. 20, Humane Society President Wayne Pacelle said.

Video Under Wraps

Rep. Michael Burgess, during a congressional hearing on food contamination this week on Capitol Hill, questioned the Humane Society's reason for waiting so long, considering much of the meat was consumed by schoolchildren.

"So why wait until February to release the video?" Burgess, R-Texas, asked.

Dr. Michael Greger, the Humane Society's director of Public Health and Animal Agriculture, answered that the San Bernardino County District Attorney's Office requested that the video be kept under wraps.

"They asked us not to publicly release this information, to hold off so they could carry out their own criminal investigation," Greger testified, under oath.

San Bernardino County Deputy District Attorney Deborah Ploghaus, the lead investigator on the case, said she never made such a request.

On Wednesday, Humane Society President Wayne Pacelle backed off Greger's statement, saying he was uncertain if the prosecutors specifically asked to keep the footage out of public view.

Pacelle, Ploghaus and her boss, Assistant District Attorney Dennis Christy, each said that in general, the authorities prefer to keep evidence secret in the course of any criminal investigation.

Pass Along Information

But regardless of whether the Humane Society publicized the video -- which they ultimately did well before the criminal investigation was complete -- Burgess suggested the group should have at least cooperated with the Agriculture Department, rather than leaving them in the dark.

"You don't have to go public to go to the USDA," Burgess said during the hearing. "The Humane Society has some data that's pretty darned important ... and it's not important enough that we don't stop (the Chino beef) from going into the stream of commerce? That's what the American people don't understand.

Leana Stormont, a Humane Society attorney, later said prosecutors suggested they would pass the information along to federal officials.

Indeed, prosecutors wanted the USDA involved, Christy said, adding, "The Humane Society was reluctant and unwilling to provide that information to the USDA at that time.

"We believed that USDA involvement was appropriate," Christy said.

Asked why prosecutors themselves didn't notify Agriculture officials, Christy said that it was the Humane Society's call, since it was their tape and their witness.

Strained Relationship

Pacelle said his group has repeatedly brought animal cruelty cases to the USDA, and that little action had resulted.

"I could have picked up the phone at any time," he said. "We just felt this case was best placed with the district attorney."

The rift between the two organizations is not new, said Bill Marler, a trial attorney who represents victims of food borne illnesses and testified alongside Greger on Tuesday.

That relationship likely became even more strained Wednesday, when the Humane Society filed a federal lawsuit against the Agriculture Department over inspection practices.

Pacelle and Agriculture Secretary Ed Schafer are each scheduled to testify about the issue this afternoon in a hearing before the Senate Appropriations Agriculture Subcommittee.

Who knew what, when?

-Approximately Oct. 7 to Nov. 20: Humane Society of the United States investigator goes undercover at Westland/Hallmark Meat Co. in Chino.

-Early December: Humane Society compiles footage, finishes investigation.

-Dec. 18 or 19: Humane Society passes evidence to San Bernardino prosecutors, who enlist help from Inland Valley Humane Society.

-Jan. 10: Local Humane Society investigators notify Chino police of evidence against Westland/Hallmark workers.

-**Jan. 15:** Chino police open criminal investigation.

-**Jan. 29:** Humane Society officials, tired of awaiting the investigation's conclusion, prepare to release the tape and notify U.S. Department of Agriculture officials of the evidence.

-**Jan 30:** Tape is released, and the USDA launches federal investigation of the plant.

-**Feb. 5:** Operations at Westland/Hallmark are suspended.

-**Feb.17:** More than for months after the first evidence is captured on video, the largest beef recall in U.S. history is ordered.

