

**BEFORE THE
OFFICE OF ATTORNEY GENERAL
STATE OF NEBRASKA**

**PETITION FOR ENFORCEMENT OF NEBRASKA ANIMAL
CRUELTY STATUTES AT HKY, INC. HOG OPERATION –
WAUSA, KNOX COUNTY, NEBRASKA**

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April 2004

THE HUMANE FARMING ASSOCIATION

April 16, 2004

The Honorable Jon Bruning
Office of the Attorney General
2115 State Capitol
Lincoln, NE 68509

Re: Petition for Enforcement of Nebraska Animal Cruelty Statutes at HKY, Inc. Hog Operation – Wausa, Knox County, Nebraska

Dear Attorney General Bruning:

On behalf of our 175,000 members, we are writing to bring your attention to an ongoing pattern of criminal wrongdoing at the HKY, Inc., a pig production facility (hereinafter “HKY”) located in Wausa, Knox County, Nebraska. To the best of our knowledge, HKY’s principal owner is Garry Young of Bloomfield, Nebraska.

The Humane Farming Association (hereinafter “HFA”) initiated a formal investigation of conditions at HKY on December 16, 2003. This investigation has generated, among other items, notarized statements from HKY’s manager [Exhibit 1] and his volunteer assistant [Exhibit 2], a letter of “expert opinion” from a large animal veterinarian [Exhibit 3], as well as extensive videotape evidence [Exhibit 4] documenting systematic violations of Nebraska animal cruelty laws at HKY. On its face, this evidence documents a pervasive pattern of abuse affecting thousands of animals.

This petition includes a “Summary of Ongoing Violations of Nebraska Cruelty Statutes at HKY, Inc.” which documents the unconscionable suffering occurring at HKY on a daily basis. This blatant criminal activity merits immediate cessation and prosecution by your office.

LEGAL BACKGROUND

It is illegal in Nebraska to cruelly neglect—or cruelly mistreat—any animal, including farm animals. On this, State law is very clear. Two provisions of Nebraska law apply directly to the handling of pigs at concentrated animal feeding operations.

Neb. Rev. Stat. § 28-1009 provides as follows:

Abandonment; cruelty; harassment of a police animal; penalty.

(1) A person who abandons or cruelly neglects an animal is guilty of a Class I misdemeanor.

(2)(a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

The terms used in § 28-1009 are defined in § 28-1008. The term "animal" is defined to mean "any vertebrate member of the animal kingdom." Neb. Rev. Stat. § 28-1008(2). Clearly this applies to the pigs at HKY.

The term "abandon" means "to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health." Neb. Rev. Stat. § 28-1008(1).

The term "cruelly neglect" has been defined by the legislature to mean "to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health." Neb. Rev. Stat. § 28-1008(4).

The term "cruelly mistreat" has been defined to mean "to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal." Neb. Rev. Stat. § 28-1008(3).²

These provisions of law set a high standard of care for farm animals. Food, water, and all "other care" that is reasonably necessary for each animal's health must be provided on a continuous basis.

² See also Neb. Rev. Stat. § 28-1013 (7), providing that no criminal liability shall attach to acts representing "commonly accepted practices of animal husbandry."

FACTUAL BACKGROUND

HKY, Inc., located in Wausa, Knox County, Nebraska (hereinafter “HKY”), breeds, farrows, and finishes swine for market. The physical structure consists of a conglomeration of barns that are all interconnected.

The barn adjacent to the office is referred to as the “gestation room” and houses breeding sows in iron restraints referred to as “gestation crates.” The gestation crates at HKY are 19 inches in width, narrower than the industry norm. There are many rows of crates in the gestation room, with the room itself having a maximum capacity of approximately 200 sows.

The crated sows stand on concrete slatted floors so their excrement will fall through to a waste pit below. (All barn flooring at HKY consists of either concrete slatting or wire grating, enabling urine and feces to fall into waste pits. These pits are supposed to be periodically drained and emptied into a lagoon behind the facility.) The gestation room has heating units that are supposed to maintain ambient temperature above 60 degrees at all times.

An automated watering system, with a water liner running down each row of gestation crates, is used to provide water to sows. The water is pumped into the liner at the head of each row and is supposed to flow by gravity to all sows in the row. While the gestation room does not have automated feeders to dispense feed, a worker feeds the sows individually, using a feed cart and a scoop. Because there are no feed troughs in which to place the feed, the worker tosses the feed onto the floor and, in some cases, onto the backs of the sows.

When it becomes time for the sows to deliver their young, they are moved into one of four “farrowing” rooms located behind the office. Each of these rooms contains eleven iron restraints called “farrowing crates.” Because newborn piglets would be too small to negotiate slatted flooring, farrowing crates rest on grated flooring above a waste pit. Unlike gestation crates, farrowing crates have feed troughs at the front of the crate, as well as water “nipples” from which the sows drink. The piglets are housed beside the sow, with access to the sow for nursing purposes. Heated with propane heaters, the ambient temperature in the farrowing rooms is supposed to be 85 degrees at all times. A heat lamp in each unit provides additional warmth for the newborn piglets.

After approximately 17 days, the piglets are separated from the sow and placed in any of three adjacent “hot nursery” rooms, each room containing ten pens. The weanlings are housed in elevated pens with grated flooring and are manually fed pelletized feed. Ambient temperature in the hot nurseries is supposed to be maintained in the mid- to high 80-degree range.

After approximately two to three weeks in the hot nursery, and at a weight of approximately 20 to 25 pounds, the pigs are transferred to the “cold nursery” where ambient temperature is about 70 degrees. This facility consists of ten ground level pens with grated flooring. The pigs are fed and watered through automated systems.

When the pigs reach a weight of approximately 50 pounds, they are segregated by sex (gilts and barrows) and are transferred to two separate barns referred to as “grower” barns. Each grower barn consists of 14 pens. The flooring in each grower pen is largely solid concrete, with one-third slatted concrete with a waste pit below. The concrete pen walls are about three feet high. The pigs are fed and watered by automated systems. There is no heat source in the grower barns other than pigs’ body heat and temperature-regulated side curtains that raise and lower to either provide shelter in cold weather or ventilation in warmer weather.

When the pigs reach a weight of approximately 100 pounds they are then transferred to one of two “finisher” barns. The pigs will remain in these barns until they reach a weight of about 260 pounds and are shipped to market. The design of the finisher barns is identical to the grower barns.

**SUMMARY OF ONGOING VIOLATIONS OF
NEBRASKA CRUELTY STATUTES AT HKY, INC.**

I. FAILURE TO PROVIDE FOOD

A. Sows

Sows in gestation room are provided inadequate food to maintain normal healthy body weight. The most prominent evidence of failure to provide adequate food is the absence of feed troughs in the gestation room, and the poor condition of sows in gestation crates.

As noted, sows are housed on concrete slatted floors to enable excrement to fall into the waste pit below. Without the use of feed troughs, feed that is tossed into gestation crates either falls on the slats—with a significant portion of the sows' rations falling directly through the slats into the waste pit—or it lands on the heads and back sides of the sows. Due to the extremely tight quarters in the gestation crates, the sows are unable to move and turn their necks and bodies in such a way to access feed thrown onto their backs.

VETERINARIAN: There were no troughs to feed the sows so the grain had to be dumped on the floor. If the grain happened to land behind the sow's shoulder area, she could not reach it because the length of the crate did not allow her to move back enough to get the food.

Exhibit 3, p. 2

LAMBIE: Because [the sows] don't have feed troughs, a lot of the food they should be eating pours down the cracks into the waste pit. These sows are trying to get their heads underneath their crates to get their neighbor's food. It's not surprising that they want the food so bad and that they look so thin because they get one scoop of feed and almost half of it, I'd estimate, goes down the slats.

Exhibit 2, p. 4

SUING: There was one downed sow that laid there for close to a month.... The feed got thrown in there.... Feed was piled up on top of her head about two inches thick. The tears from her eye got covered up with feed. Her eye was encrusted with feed....

When she died it was a pretty rotten mess.

Exhibit 1, p. 20



Not surprisingly, the sows housed in the gestation room are extremely thin and in poor flesh. The majority of sows exhibit protruding vertebral bones and several have protruding ribs.

SUING: A lot of the sows are probably hungry and starving. They're getting skinnier and skinnier. That whole place, the sows that are in there like that, they need to be on full feed. I mean, a scoop a day ain't enough, especially with the conditions that they're in.

I would imagine that if anyone came in there of high authority, out of the 150 sows that are left, I would say maybe that they would destroy 75 of them on the spot.

HFA: Because they're emaciated?

SUING: Yes.

Exhibit 1, p. 39



B. Growers/Finishers

Pigs housed in grower/finisher barns frequently experience lack of food due to faulty automatic feeders. In addition, weak, injured, diseased, or dying pigs housed in grower/finisher barns often are not removed in a timely manner from pens containing healthier and more dominant pigs. These debilitated pigs are thereby denied access to feed by healthier pen mates and thus are deprived of food.

This failure to provide adequate feed is a clear violation of Neb. Rev. Stat. § 28-1009 (1).

II. FAILURE TO PROVIDE WATER

A. Sows

Sows in the gestation room are often deprived of water due to both plumbing failures and broken and bent drinking troughs. Water troughs are nothing more than damaged liners, and allow drinking water to leak out into crates, alleyways, and the waste pit. In addition, water trough liners are improperly angled, preventing water from flowing by gravity to all the crates. The result is that sows crated at the far end of rows are provided no water.

SUING: They're all busted up and tore up and got holes in them. One trough might have water on one end but nothing down on the other end. Row four gets too much water, for instance, and then other parts of the barn don't get any water.

They're not really shaped like a trough anymore after the sow has been standing on them and flattened them out like a flat piece of iron. Water isn't going to run on a flat piece of iron.

[And] there were a lot of downed sows. I mean a *lot* of downed sows. I would say maybe sometimes ten of them at a time that couldn't get up. All they did was lie there.

So how are you supposed to get yourself a drink of water when your head is laying across the trough but the water is five or six inches away from your mouth and your tongue isn't quite long enough to get a lap of water?

I mean she couldn't get her head down there because she was down and had her head laying across the trough and there was no way she could get up to get her head bent down there, to even get a drink.

Exhibit 1, pp. 21-22

LAMBIE: A lot of times the water troughs in the gestation room are empty.... That first row... it *still* doesn't get any water in there. The water doesn't make it to the end. I don't know if the trough has cracks or holes in it.

There is this one, the whole trough thing, it's metal and it's bent down. So the water leaks out right by the side. And it leaks right into the crates with the sows. In fact, it sprays out onto the side and goes right in the crates. Most of it ends up in the first crate and goes down the slats because the slats are there.

Exhibit 2, p. 5



Sows that are weak from emaciation, downed, diseased, or dying that are placed in “sick pens” in the gestation room are often too debilitated to walk or crawl to water “nipples”. These animals suffer and in some cases appear to die from dehydration.

B. Growers and Finishers

Pigs that are sick, downed, injured, deformed, diseased, or dying, or are smaller or weaker than pen mates in finisher/grower barns are often too debilitated to walk or crawl to water or are pushed away from water nipples by healthier and/or larger pigs and thereby suffer from dehydration.

Failure to provide water to the pigs is a clear violation of Neb. Rev. Stat. § 28-1009 (1).

III. FAILURE TO PROVIDE ADEQUATE SHELTER

A. Gestation Room

The general disrepair and dilapidated condition of the gestation room presents a hazardous environment for the sows. Gestation crates are even narrower than the industry norm. Many of the gestation crates are broken with side bars dangerously twisted and sharp edges exposed. This causes serious injury—from sores to abscesses to broken bones—to the sows and in some cases causes downed sows to be pinned in place. Some of the concrete slats upon which the sows stand are broken off and missing, allowing the sows’ legs to slip through the flooring. Such incidences have resulted in serious injuries to the sows.

LAMBIE: ...There’s just a maze of rods poking out everywhere and it’s just all broken down. There’s just rods everywhere. It’s very dangerous.

We didn’t know why [the sow] hadn’t been moving. Before we ever moved her, we were just touching her, and she was screaming in pain. That’s when we saw that her leg was actually pinned under a bar from the crate. It turned out her leg was broken between her crate and the next one. That brown bar was just gouging right into her leg.

...She ultimately died from the infection of it.

Exhibit 2, p. 6

SUING: The facility that they’re in, encased in a tomb of iron, and pieces of cement missing underneath them that they get their legs caught in, and crates falling on top of them. Or some of them, the start of their downfall is sharp edges because the crates are broken. The next thing you know, they got a sore. And it just gets worse.

Exhibit 1, p. 18

VETERINARIAN: Watching this video was akin to watching a torture film. Both the sound and the extreme immobilization of the sows in the crates were overwhelming to one’s senses. Added to their extreme discomfort were missing floor slats so that the sows had only a few inches of intact slat to stand on. The missing floor slats were dangerous as well.

Exhibit 3, p. 2







Due to the minimal width and height of crates, sows are in almost continual contact with the bars of the gestation crates. This incessant rubbing against the bars of the crates results in open sores on the backs of the sows from overhead bars, on shoulders and legs from side bars, on heads and faces from front bars, and on hindquarters due to gates in back of crates. These open sores easily become infected in such a filthy environment, resulting in systemic sepsis in numerous sows. While the majority of sows in the gestation room have open sores on their faces, heads, shoulders, backs, legs, or hindquarters, they are provided no antibiotics or other treatments for such wounds. No measures are taken to protect these raw wounds from further aggravation from exposure to crate bars or other irritants or infectious agents.

VETERINARIAN: There were many injuries including open sores on shoulders, legs and face.... The gestation crates are only 19 inches wide which leads to constant contact with the sows' body. Most of the sows have inflamed skin on the sides of their bodies from the contact.

Exhibit 3, p. 3

LAMBIE: It would be very rare to find a sow who doesn't at least have sores on her front shoulders from rubbing against those crates. They all have sores.... There's hardly a pig in there who doesn't have a sore.

Exhibit 2, p. 3







Nor is the gestation room properly insulated. Due to disrepair, heating units are inoperable. This results in a bitterly cold environment in the winter.

SUING: There is no heat in that room. The only heat that is generated is from what the sows put off. The place is so drafty with the door falling off the hinges and everything else, that I am sure there is cold air along the bottom of the floor that they lay on.

HFA: What does the temperature go down to in that room?

SUING: We brought a thermometer in there and it was in the mid-40s. I had my insulated coveralls on and it was cold in there.

Exhibit 1, pp. 15-16

Failure to provide shelter from the temperature extremes, combined with failure to provide adequate feed, contributes to the deteriorating health of these sows. This results in emaciation, abortions, and a high mortality rate in the sow population.

B. Farrowing Rooms

The crates into which sows are loaded for farrowing are also in a general state of disrepair causing injuries to the sows. The size and design of these crates also produces sores on the sows.

VETERINARIAN: A section of the video showed sows in farrowing crates. Many had untreated injuries around the face, shoulders, hindquarters and legs. The bars of the crate pressed on the sows' legs when she lay down to nurse. Some part of the sows' bodies was always touching metal bars. Some of the sows had difficulty standing up after lying down to nurse their piglets.

Exhibit 3, p. 1





The design and construction of the farrowing crates causes newborn piglets to become entrapped in the gate at the rear of the crate as well as in the front bar near the sow's feed trough. Those trapped at the rear of the crate are often inadvertently crushed by the sow or deprived access to the mother sow for nourishment. In addition to being deprived access to the sow, piglets trapped at the front of the crate may die from strangulation or exposure to cold temperatures.

SUING: When that sow is having pigs and she keeps spitting those pigs out, they get their heads caught under that [rear gate] and they are just trapped right away. It's like a snare around their neck and they can't get out. They can't turn themselves around. Sometimes they die because of the cold.

I have seen that a lot—I don't know how many times. Some of those doors have real jagged sharp tin edges. They get their heads caught in there and if the sow happens to back up and lay down or something, it pulls their head off almost.

Exhibit 1, p. 27-28

LAMBIE: Just yesterday in the farrowing room, we lost two little pigs because there's too much of a gap between the front gate where the mother eats and those big feed troughs. They got their heads caught in there.... We did get some of them out, but there were two that got caught underneath there. It strangles them or something.

Exhibit 2, p. 11







There is a lack of operable heat lamps in the farrowing rooms subjecting piglets to exposure and subsequent death from the cold.

LAMBIE: And then the heat lamps—that's another thing, trying to get them to work. You can lose pigs because they get too cold. Especially if the heat lamp is not working. Because you can have them all working and the next morning you come in and they're not.... If the heat goes out during the night, a lot of them will die.

Exhibit 2, p. 11

The flooring in the farrowing crates consists of metal grating. The farrowing room is in such a state of disrepair that piglets can fall through holes in crate flooring right into the waste pit below.

SUING: There's a hole in the floor in one of the farrowing crates, and that's how they must have gotten down there.... I discovered them by pure accident. I barely heard these little squeals and I got my light out and looked down there in that hole.

HFA: How long were they down there?

SUING: Well, they had to have been down there for at least two days for sure.

Exhibit 1, p. 62



The farrowing crates are so dilapidated that sows frequently escape. This allows the piglets to run loose in the farrowing room where there are gaping holes in the slatted and grated floor. Dozens of piglets have fallen through these holes in the flooring and have drowned in the waste pits below.

SUING: Since I've been there, at least four times the little pigs have been in that pit already. Just last week Kim and I came walking in there on Saturday, and Brian [Young, the owner's son who occasionally fills in for Joe on weekends] was there. He was standing in there filling feeders and said, "We got pigs in the pit again...."

So Kim and I went and started helping him catch them. There were like 20 of them down there. Once they fall in there, some of them were so far in the soup that you could just see bubbles coming up through the manure. And I seen bubbles coming up and I knew something was in there. I could barely just see this one's snout crack through the manure, and I snared him. He did not survive.

Brian says, "You guys can get the rest of them out. I got to go haul feed." He just walked away.... And the soup was filling up in the pit and the pigs were trying to stay above water, and they had their feet hooked up on that exhaust tube. And there were a couple of them that were too scared because they were hanging on for dear life and they were afraid to come up to the light. One of them—the last one that was alive—I could see him but couldn't quite reach him. I lifted up a piece of iron and rescued him.

There were at least ten pigs that were still laying in there by drainpipe, drowned. There was no need to save them. I was just looking for bubbles.

Exhibit 1, pp. 63-64









C. Nursery Rooms

The flooring in the “cold nursery” rooms consists of metal grating. There are also open holes in this grating. This flooring has apparently caved in on at least two occasions leading to the deaths of scores of piglets.

SUING: Cold nursery room. Yeah. The floor did cave in. And the pigs all went down in the pit below. We saved what we could, but there was, I suppose, maybe a dozen pigs down there swimming around and stuff. And while we were putting this new floor in, pigs would go swimming by. Custer grabbed his sharps and shot them right there in the water and just left them laying there.

According to [former employee] Stan [Fehringer], the floor in the cold nursery fell in a couple of times. He said, “There’s probably a truckload of pigs down there.”

Exhibit 1, p. 62

The pens in the cold nursery are also in disrepair. The fencing between two of the pens is broken exposing these young pigs to dangerously sharp edges. The pigs in the cold nursery are subjected to extreme overcrowding as well.

D. Grower and Finisher Barns

The pigs in the grower/finisher barns are subjected to extreme overcrowding. Between the time grower pigs are placed in grower barns and shipped to slaughter, these animals will grow in size ten times. As pigs grow rapidly, they need to be moved into additional pens. Failure to move pigs into additional pens in a timely manner leads to overcrowding. Overcrowding results in weaker pigs being denied access to food and water by more dominant pigs. Overcrowded conditions also causes fighting among the pigs and subsequent injuries. Additionally, with insufficient room for the pigs to walk freely about the pen, pigs are continually stepped on by pen mates and injured. HKY has failed to provide sufficient space for the pigs to lie down in a dry clean area. In summer months there would not be adequate spacing for the pigs to dissipate their body heat.



A critical husbandry practice in large confinement feeding operations is the continual “sorting” of the herd in each individual pen. Sorting consists of inspecting every pig individually and on a continual basis and separating and removing from the pen those pigs that are sick, injured, emaciated, weak, or not growing as rapidly as pen mates. Due to the overcrowded conditions at this facility, sorting is difficult, if not impossible, to perform. The failure to properly “sort” results in sick and injured pigs not being identified in a timely manner and attended to. As with overcrowding, this failure to sort out weak, sick, injured, emaciated, or slow-growing pigs also results in these pigs being blocked access to feed and water by pen mates and being attacked by pen mates. (In overcrowded, stressful living conditions, once a pig is “sensed” incapable of defending itself, pen mates will often attack it.)

There is inadequate shelter for the pigs housed in the grower/finisher barns. Due to mechanical failures of the automated curtain system, frozen curtains, and the large number of torn curtains, pigs are frequently exposed to severe winter winds and cold temperatures. As a result, respiratory ailments including pneumonia are not uncommon in these barns. In fact, the grower/finisher barns are reported to have a high mortality rate.

SUING: Well, here the other day when we had a water break, that water was spraying on that curtain. I think it froze the damn curtain to that screen window out there. I came down there one morning and it was colder than hell. There was the damn curtain wide open. Then I had to go outside and bang and beat around on that curtain to break that ice so the curtain will go back down. Yeah. Those curtains are all trash.

Exhibit 1, p. 53

VETERINARIAN: Again, the video showed broken enclosures, missing floor slats, deteriorating walls... holes in the roof as evidenced by and sunlight coming through the holes. I could hear coughing pigs in the background....There was a dead pile out back with the week’s casualties piled there.

Exhibit 3, p. 2

The failure to provide adequate shelter from the elements and a safe environment for the pigs housed at this facility is a clear violation of Neb. Rev. Stat. § 28-1009 (1).

IV. FAILURE TO PROVIDE BASIC VETERINARY CARE

HKY fails to provide even a modicum of veterinary care to pigs housed at its operation. As a result, there are dozens of animals that are sick, injured, or dying at any given time without proper care or attention.

Staff at HKY receives little if any instruction in veterinary care including the recognition of disease, the administration of appropriate medications, the general care and treatment of sick and injured pigs, or the euthanasia of dying pigs. Pigs that are sick, weak, injured, emaciated, or debilitated are rarely, if ever, provided veterinary care.

A. Sows

As noted, while the majority of sows in the gestation room have open sores on their faces, heads, shoulders, backs, legs, or hindquarters, they are provided no antibiotics or other treatments for such wounds. No measures are taken to protect these raw wounds from further aggravation from exposure to crate bars or other irritants or infectious agents.

Other injuries derive from constant contact with concrete floor slats, broken and missing floor slats, and dilapidated crates. Sows exhibiting actively bleeding sores, lameness, inflamed joints, swollen and infected abscesses, and even fractured limbs, are left untreated.

VETERINARIAN: Many of the sows were thin and had poor hair coats. One sow had a severely damaged tongue. It hung from the side of her mouth, was swollen and dark in color and appeared lifeless. She was trying frantically to eat but it appeared that eating was difficult as her grain did not disappear.

There were many injuries including open sores on shoulders, legs and face. One sow had a severe injury on her back just above the tail area. It had been bleeding profusely by the amount of blood on her rear end. She was very thin and appeared weak. In this footage, there was a dying sow with extensive damage and what appeared to be infection in her right rear leg. She exhibited signs of pain which include rapid breathing, movements of the leg, and head lifting followed by groaning sounds. One sow was so crippled that she could not stand on her rear legs.

Exhibit 3, p. 3







Untreated sows, many of which can no longer stand, are in obvious distress. These sows are never euthanized by a veterinarian. On rare occasions where an injured or dying sow can assist a worker who is trying to extract her from the crate, she is coaxed and dragged from the crate alive and, once outside, shot.

SUING: Well, pretty soon it's like you better get that sow out the door—or even out of her crate on her own power with you helping her and with the little bit of power she has left. Even if you can just get her out of the crate and into the alleyway, it's a big help. And then you shoot them. Because once they die in the crate it takes an hour to get them out of there.

HFA: So you got them out of the crate first?

SUING: ...We managed to get them in the alley. They just wouldn't go any further. They were down. They were just done. Then you put them out of their misery.

Exhibit 1, pp. 17-18

Much more often, however, downed sows are simply left in crates to die prolonged deaths from infection, dehydration, or starvation. According to the manager, he has neither been instructed to, nor feels comfortable, shooting sows.

HFA: As far as the ones that go down, do they ever go down for periods of time and nothing happens to them, so they die?

SUING: Yeah.... Basically, they just laid there until they died.

HFA: For how long?

SUING: Well, once they died we got them out of there right away.

HFA: No, I mean how long would they lay there alive? For days?

SUING: Weeks. Months.

Exhibit 1, pp. 16-17

LAMBIE: Some of them have problems with their feet. Most of them that die—we took out two the other day—their whole hooves were missing. I don't know if they were caught under something. They had no hooves. The whole thing was gone.

Exhibit 2, p. 4

SUING: There was a sow down in a crate. She had been down for weeks, maybe even longer. One day she died.

Well, then I had to go drag her out of there. So I hooked the winch... and I started pulling. I wasn't able to move her. The winch didn't have enough power. I couldn't figure out why I couldn't move that hog. All she was was a bag of bones.

So I had to go get the slat pullers... to pull the slats up out of the floor. And I had pulled one of those up, just kind of jiggled it loose, and I seen her move. So I thought, "Well, I'll go winch some more on her." Which I did.

Come to find out that she had laid there so long that her skin got weak on her belly. All of her guts had gone down underneath the floor and her guts was all in a pocket, like a big balloon, underneath the slats of the floor. So that's why I couldn't pull her out.

Exhibit 1, pp. 34-35

SUING: Some of them lay in those crates so long, their legs rot off.... It's just a real atrocity how many sows that die in that place.

Exhibit 1, p. 38



B. Piglets, growers, and finishers

Numerous ill and injured piglets in the farrowing rooms and some in the nurseries are left to suffer protracted deaths without veterinary care or any form of euthanasia. Pigs in the grower/finisher barns with injuries and illnesses rendering them “unsalvageable” are also left to languish in pain.

Many pigs exhibit skin infections, apparently the result of being encrusted with excrement. Pigs also exhibit orthopedic injuries as evidenced by limping/difficulty or inability to bear weight on limb. Others have swollen joints and disarticulated limbs. As noted, respiratory ailments are also a problem evidenced by incessant coughing of some pigs. Many other untreated pigs exhibit a host of illnesses as evidenced by low weight, emaciation, listlessness, poor coat, and poor appearance. These pigs are not isolated to protect them from attack by pen mates or to protect pen mates from potentially contagious illnesses.



Some grower and finisher pigs exhibit abscesses, hernias, or ruptures—ranging in size from golf balls to volleyballs—that make it difficult for pigs to walk or stand.

VETERINARIAN: Some of the pigs were obviously ill and some were very thin. The ill pigs were “humped up”, shivering, immobile and some were down in the wet filth. One appeared to have a broken leg with a large swelling over the lower part of the leg. It could not bear weight on that leg.... [The pigs] had skin infections and some had substantial abscesses. These conditions were not treated because there was no evidence of topical medication and none of the abscesses were lanced. One feeder pig had a scrotal abscess the size of a football. Many had abscesses on their legs.

Exhibit 3, p. 1

LAMBIE: There’s quite a few ruptures and abscesses down there. Even the baby pigs up in the farrowing room, they have them too. If they don’t take care of them, they just keep getting bigger and bigger and bigger. Nobody’s ever been out there to do anything about them.

We had a barrow down there with a big old growth between his back legs. It was huge, his legs wouldn’t even go together in the back. It was the size of a basketball. It popped this week. I don’t know what happened when it popped. Probably the same thing that happened to that one in the gestation room. The pus and stuff probably just flies all over the place.

Exhibit 2, p. 14







The failure to provide veterinary care is responsible for unwarranted deaths of scores of pigs at HKY and is in direct violation of Neb. Rev. Stat. § 28-1009 (1).

V. NONEXISTENT DISEASE PREVENTION PROGRAM

HKY has also failed to establish and maintain a disease prevention program to control the spread of pathogens responsible for numerous disease outbreaks. Diseased pigs are neither placed in sick pens to prevent direct contact with pen mates, nor are they placed in any form of isolation to prevent the spread of airborne pathogens to pigs throughout the barn. Even when medication is provided, it is administered using the same needle on roughly 25 pigs, thereby further spreading disease.

Surgical and medical instruments, primarily used for processing highly susceptible newborns, are filthy. Some of these instruments are green in color, apparently from mold. The refrigerator containing medications and instruments is filthy and appears to be harboring mold. The manager's repeated requests for ammonia to clean apparatus have been denied.

VETERINARIAN: The refrigerator holding medication and surgical instruments was filthy. There appeared to be mold on the shelves and sides of the refrigerator. Liquids appear to have dripped down on the pans and along the inside of the door. The entire interior of the refrigerator was brownish green. A pan held some surgical instruments. The pan was green with mold and filthy. Surgical instruments included a scalpel and blade, ear notch pliers, needle teeth clipper, a couple of syringes and one or two other tools. Certainly these instruments were contaminated with bacteria and mold. There was no evidence of any disinfectant in or near the refrigerator.

Exhibit 3, p. 2



Dead pigs are not removed in a timely manner, but are instead left to decompose in barn alleyways or in pens with other pigs. Some of these carcasses are cannibalized by the other pigs. The failure to remove diseased carcasses is not only unacceptable but promotes the spread of disease to pen- and barn-mates. These acts of negligence, mismanagement, and cruelty fall far below the standards of animal care deemed acceptable by law.

As a result, HKY has serious maggot and fly infestations.

SUING: In the summertime they [dead pigs would] get puffy and smelly. In the summertime the rendering truck comes sometimes twice a week, but never more than that. Most of the hogs laid inside the alleyway in the summertime.

HFA: Inside?

SUING: Yeah. They laid inside the alleyways. You had to stumble over them every morning and night....

HFA: Would they get maggots on them in the barns in the summer if they were lying in the alleyway?

SUING: Oh yeah!

...Something else too. I suppose the reason we kept [the dead piglets] in those buckets and kept them in the shop is because, in the summer, if they sit outside, then in about a day's time that bucket's full of maggots. I have seen those buckets, when maggots were level to the top, sit in the shop there like that. I thought, "Shit. There's flies in the shop."

Exhibit 1, p. 50-52







In summary, scores of sick and injured pigs are suffering at HKY on a continuing basis due to the company's failure to maintain a disease prevention program.

VI. LACK OF ADEQUATE SANITATION

Pigs at HKY live in an excessively filthy and unsanitary environment.

As noted, sows in the gestation room are housed on slatted concrete floors. Excrement is pushed down through the slats by sows stepping on their feces. The floors of the crates become caked with urine and fecal material. Piles of excrement accumulate at the back end of the crates and into the alleyways between the rows of crates extending the length of the barn.

The sows in the farrowing rooms are housed on wire mesh flooring. Mesh flooring is even less permeable than slatted flooring, and excrement accumulates several inches high in the rear of the crate. The sow must lie in this excrement while nursing.

In the grower/finisher pens, only about one-third of the flooring is slatted. The remaining two-thirds of flooring in each pen is solid concrete. Consequently, excrement is piled high on the concrete floors. In some pens, excrement covering floors may measure over a foot deep. Pigs live, eat, and sleep in these piles of excrement. Manure becomes mixed with urine and excessive amounts of feed dust and daily organic dust, as well as feed spills (not uncommon due to the faulty automated feeding system), resulting in a grossly unsanitary environment for the pigs. Many of the pigs housed at this facility are caked in manure. This lack of sanitation creates a squalid and stressful living environment for grower and finisher pigs.

VETERINARIAN: Pen after pen was filthy and very wet. The pigs were encrusted with filth. The pens were overcrowded and the pigs had no dry place to lie down.... Again, the video showed extreme manure and urine filth, constantly wet floors, lame pigs and more pigs with abscesses.

Exhibit 3, p. 1







These unsanitary living conditions also expose the pigs to obvious health hazards. Pens are neither cleaned nor sanitized after “finished” pigs are shipped to slaughter. Instead, a new generation of pigs to be fattened is simply loaded into filthy pens. Generations of pigs are housed in pens contaminated with accumulations of excrement from previous groupings of pigs.

With no flushing system in place to constantly remove sewage, feces and urine that fall into the waste pit accumulate to a height of several feet. Pigs—possessing highly developed olfactory senses—live directly above this noxious accumulation of excrement. In addition to the irritating odors, pigs are also exposed to dangerously high levels of ammonia emanating from waste pits as well as to populations of flies and maggots attracted to these fecal build-ups. At HKY, sewage drains from pits by force of gravity over a slow and protracted process. Waste pits often become blocked, allowing excrement to rise to levels within inches of the slats.

SUING: Water goes down into that pit and that gets plugged up. Two times this past month I had the guy come out and unplug it. The waste was about two or three inches from coming up through the slats.

Exhibit 1, p. 22

LAMBIE: In the farrowing barn, we have a problem with the waste coming up to, and over, the floor. The underneath of them will get full.... Then it starts leaking out in the aisle where you have to walk.... I noticed yesterday that the third farrowing room is starting to do that.... I walked through there and thought, “God, I hope these boots ain’t got any leaks in them!” It backs up right into the aisle where you walk. That’s how bad it is.

Exhibit 2, pp. 12-13

Due to faulty piping, water leaks have caused wastewater to back-up into the pens housing animals, forcing pigs to swim in sewage.

SUING: The water was three feet high in the alleyway and I couldn’t even get down there to get the door open. All those pens in the finisher and the grower feeders were under water, the bottom parts of them. ...I don’t know how [the pigs] kept from drowning. They were all piled up and standing on their hind legs, leaning up against the wall and stuff, trying to stay out of the water. It was a mess.

Exhibit 1, p. 33



Any reasonable person would conclude that such conditions are unhealthy and would constitute a clear case of neglect under Neb. Rev. Stat. § 28-1009 (1).

VII. FAILURE TO PROVIDE ADEQUATE VENTILATION

Due to disrepair, a significant number of ventilation fans are inoperable. This results in lack of air circulation and adequate ventilation for the pigs housed in the facility.

A. Ammonia

Lack of sanitation, overcrowding, and inadequate circulation and ventilation all contribute to high concentrations of ammonia gas at the complex. The ammonia gas levels are extremely high in the gilt grower barn. The elevated levels of ammonia gases at HKY present a clear danger to the health and welfare of the pigs that are confined in these barns and subjected to these fumes for the duration of their six-month lives. For the breeding sows, of course, there is no escaping exposure to these gases for years of confinement. Ammonia is a highly irritating gas to pigs causing serious respiratory illnesses and a general health deterioration.

B. Organic Toxic Dust

Due to overcrowding and inadequate circulation and ventilation, there exists a high concentration of dust particles from grain pumped into the facility to feed approximately 2000 pigs. This high concentration of dust can become toxic in poorly ventilated barns as evidenced at this facility and is referred to as “Organic Toxic Dust Syndrome”. Under certain lighting conditions, a flurry of this dust can be observed circulating through the air at HKY. The pigs are exposed to this pollutant and inhale this severely irritating toxic dust at all times. Again, in the case of the sows, this period of exposure can last several years.

LAMBIE: To me, they're maybe dying because they're breathing in all that nasty stuff. I don't know if that affects pigs. It would kill me down there if I had to be down there 24 hours a day.

The air is worse in both the grower and finisher. The smell! It's getting to the point where I'm almost gagging when I go down there. They don't give us anything to wear over our face. All I can think of is, "My lungs are filling up, my lungs are filling up."

Exhibit 2, p. 14

Lack of adequate ventilation causes or contributes to suffering and serious respiratory diseases such as pneumonia that is present in this herd of animals. Such failure to provide adequate ventilation clearly constitutes a violation of Neb. Rev. Stat. § 28-1009 (1).

VIII. OPERATIONAL NEGLECT

A. Insufficient number of employees

Among the most glaring deficiencies responsible for HKY's failure to provide appropriate nourishment and care for its pigs was management's lack of a sufficient

number of employees to attend to the 2000-plus pigs at the facility. Until November 2003, only two full-time employees cared for the pigs housed at this operation. This lack of manpower to perform even the most minimal animal husbandry practices resulted in deplorable care and living conditions. There is also an ongoing history of serious deficiencies in the maintenance of feeding, watering, ventilation, and sanitation apparatus, as well as general maintenance of primary enclosures including overall structural stability of buildings.

Compounding the dreadful conditions is the fact that since November 7, 2003, HKY has employed only a single full-time worker to care for all pigs and maintain all mechanical operations at the facility. In desperation, this sole employee found it necessary to enlist the fulltime help of an unpaid volunteer to assist in the care of the pigs in the farrowing rooms and in the “hot” and “cold” nurseries. This volunteer, who also worked a fulltime night job elsewhere, was responsible for providing care not only to a large number of pigs at the facility, but to the youngest and most vulnerable pigs. Despite this, she received no compensation from HKY.

Management’s failure to provide a sufficient number of employees to adequately care for the pigs at this facility results in a continual state of neglect for and abandonment of the pigs at HKY.

There is also a failure to ensure adequate care for pigs on those weekends and holidays when the manager and volunteer assistant did not work, further compounding the neglect and abandonment of these animals.

B. Nonexistent supervision

It must be emphasized that rearing a herd of 2000 pigs is a 24-hour a day, seven-day-a-week enterprise. Weanlings fall through flooring and drown in waste pits or become trapped, crushed, and strangled in farrowing crates, pigs become ill or injured, sows deliver offspring in gestation crates, feed augurs and watering systems malfunction, curtains fall down exposing pigs to bitterly cold temperatures, urine and manure back up in waste pits and flow into pens, dominant pigs attack and cannibalize weaker pigs every day of the week—not only Monday through Friday from 6:00 am to 2:00 pm. Two thousand animals housed together in a closed, confined environment require human oversight on an ongoing basis—especially to ensure the monitoring, care, and treatment of the numerous sick and injured pigs present, as well as the scores of newborn piglets, at this operation.

Not only is there extreme neglect of the apparatus used to care for the pigs housed at HKY, but there is also a lack of equipment and supplies necessary to conduct essential repairs. There is an overall chronic failure to adequately maintain facilities to ensure proper care and protection of the pigs. Even shortages of feed are a serious concern and are indicative of the neglect and reckless disregard for the welfare and humane treatment of the pigs housed at HKY.

The fact that there is an insufficient number of employees present to attend to the pigs is compounded by the owner's utter failure to provide any oversight or supervision at HKY.

SUING: I have only seen [the owner] there twice that I can actually remember. I will even give him the benefit of the doubt with three times, but once I know for sure.

It was on the 4th of July. There were ten dead sows in there that day. I didn't know what was going on. I freaked out. I was going in the office to call him and I just happened to see him out in the driveway. He had brought in some semen and dropped it off. I ran out and hollered at him. He came in and I told him what was going on, that there were ten dead sows out there. So, he walked out there.

It took him about 15 minutes to find a pair of boots to put on. Then we walked down through there. He had to move through all those junk crates and we walked down through there. All he said was, "Well, this one died because she's got a sore on her. That one died because she's got a sore on her." That was about it. He really didn't care about anything. He just said, "Oh well. They might have gotten too hot and died." That was it.

HFA: So, that's one time. Has he been out there while you've been running the place all by yourself? Has he come out at all?

SUING: No.

Exhibit 1, pp. 5-6

Such failure to provide adequate operational support and oversight is a clear violation of Neb. Rev. Stat. § 28-1009 (1).

IX. MORTALITY RATE

Management's failure to provide veterinary care, a disease prevention program, proper shelter, suitable food, drinking water, adequate sanitation, and ventilation, as well as HKY's overcrowded facilities and operational neglect cause the cruel and unnecessary deaths of scores of sows, newborn piglets, and grower and finisher pigs at this facility each month. These pigs are piled up for pick-up by the rendering truck weekly.

HFA: How many [pigs] have died in the last month?

SUING: Well, I have a paper here. "January 1st, there were four or five dead sows, and there was one boar, Frisky, and there were 20 dead gilt pigs and buckets of dead baby pigs. The rendering truck came. And some other different company came. It was New Year's Day that they picked them up."

Now I have written down here: "January 12th: We have six dead sows, two big fat hogs, 30 baby pigs." Now we are on the next truckload, starting now. So as of right now, a couple of days after the truck was there, we probably have ten dead baby pigs and one big fat hog, for sure.

Exhibit 1, p. 25







These death losses are directly attributable to company policies and practices in violation of Neb. Rev. Stat. § 28-1009 (1).

IX. REQUEST FOR INITIATION OF ENFORCEMENT ACTION

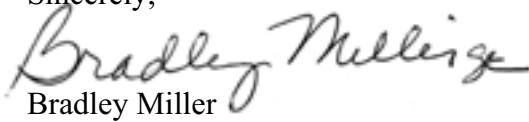
The evidence summarized above demonstrates that every day, hundreds of pigs endure unimaginable suffering at HKY.

Based on the facts set forth above, petitioners respectfully request that your office initiate an investigation of HKY and its demonstrated disregard for animal welfare, and prosecute the company and all relevant parties for their ongoing violations of state law. As set forth above, Nebraska law provides penalties, including jail time and financial penalties, for violations of animal cruelty laws.

To any extent that you direct, petitioners stand ready to assist you in further documenting violations of the law and the serious threats to animal well being that exist at HKY.

Once you have had the opportunity to review this information, we would like to meet with you to discuss the matter. Our attorneys will contact your office in the next few days to schedule an appointment.

Sincerely,



Bradley Miller
National Director