

July 19, 2004

Lucas See, Esq.  
Prosecuting Attorney  
204 Washington St.  
Moorefield, WV 26836  
304-538-7063  
304-538-7800 (fax)

RE: Cruelty to Animals at Pilgrim's Pride Corporation:  
Request for Prosecutorial Action

Dear Mr. See:

I am writing to direct your attention to recent conduct in Moorefield, W.Va., witnessed and documented by an investigator for People for the Ethical Treatment of Animals (PETA), which constitutes egregious violations of W. Va. Code § 61-8-19. Cruelty to animals.

The conduct at issue occurred on a daily basis between September 3, 2003, and May 5, 2004, at a poultry slaughterhouse owned and operated by Pilgrim's Pride Corporation and located at 129 Potomac Ave., Moorefield, WV 26836.

W. Va. Code § 61-8-19 prohibits cruelty to animals and criminalizes the following conduct:

- (a) If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandons any animal to die, or uses, trains or possesses any domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than one thousand dollars or confined in the county or regional jail not more than six months, or both so fined and confined.
- (b) If any person intentionally tortures or maliciously kills an animal, or causes, procures or authorizes any other person to torture or maliciously kill an animal, he or she is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than three years and be fined not less than one



**PETA**

PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS

501 FRONT ST.  
NORFOLK, VA 23510  
757-622-PETA  
757-622-0457 (FAX)

PETA.org  
info@peta.org

AN INTERNATIONAL  
ORGANIZATION DEDICATED  
TO PROTECTING  
THE RIGHTS OF ALL ANIMALS

thousand dollars nor more than five thousand dollars. For the purposes of this subsection, “torture” means an action taken for the primary purpose of inflicting pain.

Enclosed is edited video footage that contains examples of hundreds of violations of the statute, which transpired during the course of an eight-month PETA investigation and were documented in their entirety in a series of videos filmed by the investigator. As one expert in farmed-animal husbandry summarizes, the video footage reveals “workers gratuitously bouncing live chickens off walls, slamming birds brutally to the floor, jumping on the animals viciously with one or both feet, kicking birds, [and] throwing birds at other employees ... .”<sup>1</sup>

The unedited video footage is available on request and contains evidence of scores of additional violations of the statute. In addition, please find attached a declaration provided by the PETA investigator, which documents further instances of cruelty to animals.<sup>2</sup> The declaration is offered in support of the allegations contained herein, and the PETA investigator is available to assist your office upon request and at your convenience.

The complaint against the actions of employees at the slaughterhouse and Pilgrim’s Pride Corporation is detailed below. Attached are statements by independent, internationally renowned experts in the field of animal husbandry that unequivocally declare that the actions depicted in the edited video footage fall below the parameters of usual and accepted industry standards and, moreover, are intentionally abusive, cruel, and malicious.<sup>3</sup>

The videos and declaration provide incontrovertible evidence of intentional torture and malicious killing of chickens at the above-referenced facility and thus warrant an investigation and prosecution of all culpable parties.

## **I. OVERVIEW OF INCIDENTS OF CRUELTY TO ANIMALS AT PILGRIM’S PRIDE**

The majority of the conduct was commonplace and directed at live, fully-conscious chickens. The conduct is described in general terms to include the following:

- Stomping and jumping on live, fully conscious chickens
- Slamming live, fully conscious chickens against the wall, floor, and machinery
- Kicking live, fully conscious chickens
- Plucking feathers off live chickens in order to “make it snow”

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<sup>1</sup> Letter from Bernard E. Rollin, Ph.D., Distinguished Professor, Professor of Philosophy, Animal Sciences, Biomedical Sciences and University Bioethicist, Colorado State University, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (June 28, 2004). Ex. 1.

<sup>2</sup> Declaration of XXX. Ex. 2.

<sup>3</sup> The enclosed video titled “Pilgrim’s Pride Investigation” contains all scenes that were viewed by the independent experts, as well as additional scenes that further document the conduct at issue. A copy of the video titled “Chicken Slaughterhouse Investigation,” which was viewed by the experts, is also enclosed.

- Putting a latex glove over the head of a live chicken and watching the animal struggle and suffer as she slowly suffocates
- Twisting the necks of live chickens until the animals' heads detach from their bodies
- Squeezing live chickens until feces are expelled from their rectums and directing the stream of feces into the eyes of other chickens
- Dropping a coffee can filled with concrete onto live chickens
- Tossing live chickens across the room and punting the animals while employees play "football" with the birds
- Beating live chickens with a rubber hose
- Spray painting live chickens, directing the aerosol into the eyes and faces of the birds
- Breaking live chickens' legs because the animals struggle when they are picked up
- Breaking the bodies of live chickens in half by smashing the animals against the metal rail of the conveyor belt
- Punching live chickens
- Breaking the wings of live chickens
- Smashing live chickens against the metal rail to make their heads pop off
- Beating live chickens with a metal rod
- Discarding injured chickens in a bin where the birds are left to suffer for hours or suffocate under the bodies of other birds

These and similar behaviors were part of the daily routine at the Pilgrim's Pride slaughterhouse in Moorefield, as documented herein, and employees engaged in these behaviors—often with unconcealed amusement—while Pilgrim's Pride management turned a blind eye. As discussed in detail below, each and every one of these behaviors was intentional and malicious, as it was carried out for no purpose other than the infliction of pain on the animals, and thus constitutes a felony as defined by W. Va. Code § 61-8-19(b).

## **II. SPECIFIC INCIDENTS OF CRUELTY TO ANIMALS AT PILGRIM'S PRIDE**

### **A. Intentional and Malicious Cruelty by the "Live Hangers"**

The following section recounts the incidents in the enclosed video titled "Pilgrim's Pride Investigation," which you may wish to review at this time. The edited video is not an exhaustive catalog of every incident witnessed and documented during the course of the investigation; rather, it should be viewed as a condensed, representative summary of routine conduct involving felonious cruelty to animals.

The video footage was filmed in the "hang pen" of the facility, a room where lighting is minimal in order to curtail movement by the chickens and thus make it easier for the employees to restrain, or hang, the chickens as they arrive at the slaughterhouse. As a result, the quality of the video footage is not optimal, and identification of individual

employees in the edited video may be difficult.<sup>4</sup> Please note that when these and other incidents are viewed chronologically in real time, each individual perpetrator can be positively identified. PETA is prepared to assist your office with this matter upon request.

You may also wish to review the declaration of the PETA investigator at this time. The declaration contains background information that explains the physical environment and places the contents of the edited video in proper context.<sup>5</sup>

The edited video contains repeated examples of conduct that constitutes “intentional torture” and “malicious killing” of animals as defined under W. Va. § 61-8-19(b) and as those terms have been interpreted by the Supreme Court of Appeals of West Virginia.

W. Va. Code § 61-8-19(b) defines “torture” as “an action taken for the primary purpose of inflicting pain”—a definition that applies without question to the behaviors of the employees of Pilgrim’s Pride, as documented by the PETA investigator.

The Supreme Court of Appeals of West Virginia has defined malice as “a term importing wickedness and excluding a just cause or excuse,” and thus, “malice is implied from any deliberate cruel act[.]”<sup>6</sup> In *State v. Burgess*, the court recognized that when one unlawfully kills an animal who belongs to another person by using a commonly accepted, humane method (e.g., killing a large farmed animal by a bullet to the head), and there is no evidence of any other malice, the act is not malicious and does not violate W. Va. Code § 61-3-27.<sup>7</sup>

However, more importantly, the court confirmed that when deliberate acts cause prolonged suffering prior to an animal’s death (such as the acts that are the subject of this complaint), malice can be inferred and the actor’s conduct constitutes a violation of the law—even when the animal is destined for slaughter for human consumption.<sup>8</sup>

The behaviors of the employees of Pilgrim’s Pride, as set forth below, violate W. Va. Code § 61-8-19(b) because they bear the mark of maliciousness, i.e., they were carried out for no purpose other than to inflict pain on the animals, and because they do not represent “usual and accepted standards” of poultry production and management, the conduct is not exempt from the prohibitions set forth in the statute.<sup>9</sup>

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<sup>4</sup> Please note that the quality of the original Hi8 video is superior to that of the enclosed VHS tape.

<sup>5</sup> See XXX Decl., ¶9. Ex. 2.

<sup>6</sup> *State v. Burgess*, 516 S.E.2d 491, 493 (W.Va. 1999) (interpreting W. Va. Code § 61-3-27, which prohibits the “malicious killing” of a domestic animal who belongs to another) (internal citations omitted).

<sup>7</sup> *Id.* at 494.

<sup>8</sup> In *Burgess*, the court also noted that even the use of a humane method to kill an animal destined for human consumption can nevertheless be malicious, citing as examples instances in which a defendant “kills the animal for no other reason than just to watch it die; or proof that he did so out of spite ... or to simply annoy the owner ...” *Id.* at 494 n.2.

<sup>9</sup> W. Va. Code § 61-8-19(f) exempts conduct involving poultry “if kept and maintained according to usual and accepted standards of ... production and management ...” (Emphasis added.) The exemption does not apply to the conduct at issue in this complaint because none of the behaviors represent “usual and accepted standards” of poultry production and management. The conduct constitutes intentional torture and malicious killing and as such is prohibited under W. Va. Code § 61-8-19(b).

## 1. Stomping Live, Fully Conscious Chickens

### Incident 1: March 9, 2004

As XXX (last name unknown, a.k.a. “---”) enters the hang pen, he intentionally stomps on a chicken. After XXX steps away, the injured chicken can be seen flapping in the background. XXX proceeds to stomp on another bird.

### Incident 2: March 12, 2004

As XXX walks toward the door, he intentionally stomps on a chicken. Then, using his boot, he pins the animal down and grinds the animal’s body into the floor. The animal thrashes beneath his boot. XXX steps away from the injured animal and then kicks another bird. Injured birds can be seen flailing on the floor.

### Incident 3: April 6, 2004

XXX (last name unknown) enters the hang pen and intentionally stomps on a chicken three times. After the third stomp, the animal continues to thrash. XXX deliberately kicks the animal toward the pile of dead and dying birds. XXX (a.k.a. “---”) exits the pen and intentionally slams an animal to the floor.

### Incident 4: February 23, 2004

XXX intentionally stomps on chickens, targeting birds with ten consecutive steps.

### Incident 5: February 25, 2004

XXX (a.k.a. “---”) exits the hang pen; a chicken who has wandered outside is thrown back into the pen. When XXX returns, he intentionally stomps on chickens with both legs. He stomps the animals four times, raising his knees in a tucked position, thereby deliberately increasing the force of his body weight on the birds beneath him.

### Incident 6: February 25, 2004

As XXX (a.k.a. “---” or “---”) steps away from the hang line, he deliberately stomps on chickens. XXX raises his knees in a tucked position and stomps on the animals seven times. He stomps another bird twice with one leg and then returns to the line.

### Incident 7: February 27, 2004

XXX (last name unknown, a.k.a. “---” or “---”) enters the pen. As a chicken attempts to exit through the open door, XXX intentionally raises his foot and stomps on the bird. As the bird attempts to evade him, XXX stomps on the bird’s wing. When he removes his boot from the animal’s body, the injured animal makes another attempt to escape. XXX follows the bird and attempts to stomp on the animal with a series of quick short steps, and when he catches the bird, he stomps on the animal twice.

### Incident 8: March 5, 2004

XXX (a.k.a. “---” or “---”) drops a bird as he works on the hang line; he intentionally jumps up with both legs and stomps on the discarded bird.

Incident 9: March 5, 2004

XXX steps away from the line and hurls a chicken against the wall. Moments later, a bird falls off the conveyor belt, and XXX deliberately stomps on the animal. Both feet leave the ground, and XXX lands on the bird twice. XXX resumes hanging while the pinned bird struggles beneath his boot. Twenty seconds later, another bird falls from the line. XXX deliberately keeps his right boot on the first bird, pivoting on the body of the animal, and stomps the other bird twice with his left leg. The chicken continues to struggle; again, XXX intentionally stomps the bird and then kicks both chickens to the wall.

Incident 10: February 27, 2004

XXX encounters a chicken and intentionally steps on the animal as he exits the hang pen. Dr. Laurie Siperstein-Cook, a prominent avian veterinarian, singled out this incident of “sadistic cruelty,” stating that the animal “can be seen afterward struggling and flapping on the floor for at least one minute.”<sup>10</sup>

Incident 11: February 26, 2004

XXX rakes out chickens from beneath the conveyor belt. He takes one bird, turns, and deliberately slams the bird into the wall. He pins the animal down by stepping on the animal’s flailing wing and proceeds to stomp on the animal, grinding the bird’s body into the floor with his other foot. He deliberately kicks her backwards, behind him. The animal flails in the corner for thirty-eight seconds following the attack.

Incident 12: February 26, 2004

XXX (a.k.a. “---”) enters and deliberately raises his left leg and stomps on a chicken. The animal flails violently; XXX stomps on the chicken again, deliberately shifting his body weight onto his left leg and thus the bird he is standing on. The bird struggles for thirty seconds after XXX removes his leg. As he gathers other birds on the floor, he collects the injured animal and carries her out the door.

*Experts agree that the incidents depicted above were intentional and malicious and that the chickens who were so treated were inflicted with severe injuries that caused them to suffer as they awaited slaughter. For example, Dr. Laurie Siperstein-Cook opines, “In most cases, especially where the worker is hopping at random (and seemingly with joy) through the layer of chickens, the chickens would likely suffer injuries of a broken bone (leg, wing or back) or internal bleeding...with damaged bones or internal organs, the chickens would be in pain [and] suffer for long periods until properly slaughtered.”<sup>11</sup> Dr. Ian Duncan, one of the world’s most knowledgeable poultry ethologists, adds that “unless the bird’s skull was crushed by the stomping, the death would be a slow and painful one.”<sup>12</sup>*

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<sup>10</sup> Letter from Laurie Siperstein-Cook, M.A., D.V.M., to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 2, 2004). Ex. 3.

<sup>11</sup> Letter from Siperstein-Cook to Akin. Ex. 3.

<sup>12</sup> Letter from Ian J.H. Duncan, B.Sc., Ph.D., Professor of Applied Ethology, Department of Animal and Poultry Science, University Chair in Animal Welfare, University of Guelph, Ontario, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 4, 2004). Ex. 4.

*The experts also agree, without qualification, that stomping birds does not constitute a “usual and accepted standard” of poultry production and management. According to Dr. A.B.M. Raj, who has served on international scientific committees addressing humane stunning and slaughter methods, stomping “is not a humane way of killing chickens and one will not find this as an acceptable practice in any text.”<sup>13</sup> Dr. Ian Duncan responded to the stomping incidents by saying, “This is a completely unacceptable way to kill chickens ... .”<sup>14</sup>*

## 2. Kicking Live, Fully Conscious Chickens

### Incident 13: March 2, 2004

XXX (last name unknown, a.k.a. “---”) steps back, raises a chicken above his head, and slams the bird against the rail with such force that the bird’s body breaks in two. Next, XXX walks toward the door carrying several birds in each hand. He deliberately kicks the bird who was thrown to the floor at the beginning of the scene. XXX picks up the flailing bird and hangs her on the line.

### Incident 14: March 2, 2004

XXX drops a chicken onto the floor; the bird stands in the lighted doorway. XXX turns from the line, draws back his leg and deliberately kicks the animal. The force sends the chicken sailing into the opposite wall; the startled animal runs to the corner of the pen. Dr. Laurie Siperstein-Cook commented on this incident, saying: “[T]he chicken is clearly standing on the floor and the worker kicks it across the room. The chicken can then be seen to be still alive.” Dr. Siperstein-Cook characterized this behavior as “gratuitous cruelty.”<sup>15</sup>

### Incident 15: March 2, 2004

XXX has his back to the conveyor belt where a chicken is flailing behind him. XXX turns toward the belt, lifts the bird, and drops it. Bracing his arm against the rail, XXX steps back, raises his leg high enough to clear the waist-high rail, and kicks the animal. The bird continues to flail. He grabs the chicken by the tail feathers and slams her against the overhead shackles. XXX continues to torture the animal, wringing the bird’s body in both fists for several seconds. He then turns the bird upside down and walks toward the door, presenting the animal in his outstretched arm to an employee standing in the doorway. The employee smacks the still-struggling bird. XXX returns to the line and hangs the bird.

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<sup>13</sup> Letter from A.B.M. Raj, B.V.Sc., M.V.Sc., Ph.D., Senior Research Fellow, Division of Farm Animal Science, School of Clinical Veterinary Science, University of Bristol, United Kingdom, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 1, 2004). Ex. 5.

<sup>14</sup> Letter from Duncan to Akin. Ex. 4.

<sup>15</sup> Letter from Siperstein-Cook to Akin. Ex. 3.

Incident 16: March 9, 2004

XXX steps away from the conveyor belt, walks toward the door, and kicks a chicken with “great force,”<sup>16</sup> causing the animal to collide with the wall. The injured animal flails; XXX walks out the door. Dr. Ian Duncan characterized the kicking in this scene as being “violent as though there is an intention to inflict pain.”<sup>17</sup>

Incident 17: February 20, 2004

XXX punches a chicken on the belt; the force of the impact sends the injured animal sailing to the ground, where the animal flails. XXX (last name unknown) then enters and deliberately kicks the same bird, whose wings can be seen flapping as she sails from view.

Incident 18: February 20, 2004

XXX takes a chicken from the belt and throws her to the floor. The injured bird beats her wings on the ground. XXX enters the pen and begins tossing discarded birds into the pile against the wall. The bird who was originally injured by XXX jumps up from the floor. In response, XXX kicks the animal with such force that the collision with the wall causes the animal to bounce off and sail from view.

*Unnecessary pain and suffering are inevitable when animals are kicked in the manner seen in the video; experts agree that injuries result, which include bruising and broken bones accompanied by great pain.<sup>18</sup> Dr. Laurie Siperstein-Cook stated, “Even if the goal were to move a chicken out of the way, this is a totally inappropriate way to achieve that. Chickens can easily and harmlessly be brushed aside with a foot without causing injury. These workers clearly go out of their way and seem to take joy in causing pain.”<sup>19</sup>*

*Dr. Donald Maurice Broom, a world-renowned expert on farmed-animal physiology who served as chair of the European Union Scientific Veterinary Committee, pointed out the wanton nature of the conduct: “It is never necessary to kick a chicken vigorously, either deliberately or accidentally, and actions shown in the video would have caused bruising, often with bone breakage, and hence pain, suffering and distress. Many of the birds kicked could be seen to be moving and flapping after the kick in such a way that their continuing consciousness was evident.”<sup>20</sup>*

*Experts unanimously stated that kicking chickens fails to comport with “usual and accepted standards” of poultry production and management. Dr. Ian Duncan explained that “kicking is completely unacceptable as a means of moving birds in the industry.”<sup>21</sup>*

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<sup>16</sup> Letter from Siperstein-Cook to Akin. Ex. 3.

<sup>17</sup> Letter from Duncan to Akin. Ex. 4.

<sup>18</sup> See, e.g., Letter from Duncan to Akin. Ex. 4.

<sup>19</sup> Letter from Siperstein-Cook to Akin. Ex. 3.

<sup>20</sup> Statement of Maurice Donald Broom, M.A., Sc.D., Ph.D., Professor of Animal Welfare, Department of Clinical Veterinary Medicine, University of Cambridge, United Kingdom (July 12, 2004). Ex. 6.

<sup>21</sup> Letter from Duncan to Akin. Ex. 4.





















