

July 22, 2016

Kurt A. Petermeyer, Regional Administrator
U.S. Department of Labor
Occupational Safety and Health Administration
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Room 6T50
Atlanta, Georgia 30303

Via Certified Mail, Tracking Number 7010 0290 0002 4153 0899

RE: Complaint of Safety and Health Hazards at Farm Fresh Foods, LLC poultry processing plant in Guntersville, Alabama

Dear Regional Administrator Petermeyer:

The Southern Poverty Law Center (SPLC) writes this letter on behalf of [REDACTED] and [REDACTED] as a supplement to their attached Notices of Alleged Safety or Health Hazards, through which they report serious hazards at **Farm Fresh Foods, LLC, 5016 Grimes Drive, Guntersville, Alabama 35976**. Farm Fresh Foods, a poultry processing facility opened less than two years ago, employs hundreds of workers. The Complainants were jointly employed by Farm Fresh Foods and its payroll processor, Triple F Staffing, LLC. They and two dozen or so other workers were employed in the facility's sanitation crew during the third shift, from 12 p.m. to 7 a.m or 8 a.m. This letter describes the some of the health and safety hazards that sanitation workers were exposed to at Farm Fresh Foods, in violation of OSHA standards.

OSHA has jurisdiction over this Complaint and to inspect the worksite pursuant to 29 U.S.C. § 657 and 29 C.F.R. § 1903.3(a). The Complainants are concurrently filing Notices of Whistleblower Complaints and are willing to have their names revealed to their former employer. Per the Revised Memorandum of Understanding of December 7, 2011 between the U.S. Department of Homeland Security and the U.S. Department of Labor Concerning Enforcement Activities at Worksites (DHS-DOL MOU), the Complainants request that this Notice and Complaint be shared with the appropriate office within the Departments of Labor and Immigration and Customs Enforcement (ICE) to ensure that ICE refrains from engaging in worksite enforcement activities at Farm Fresh Foods during any related U.S. Department of Labor investigation and any related proceeding. See § IV(A) of the DHS-DOL MOU (Dec. 7, 2011), available at <https://www.dol.gov/asp/media/reports/DHS-DOL-MOU.pdf>.

1. Exposure to Dangerously Fast Work Speeds in Violation of 29 U.S.C. § 654(a) (“General Duty Clause”).

Sanitation workers were forced to perform their work at punishing speeds, routinely facing harassment, points, or suspension for falling short of speeds likely to cause them serious physical harm, in violation of the General Duty Clause. 29 U.S.C. § 654(a). In March 2015, when Farm Fresh Foods opened its Guntersville plant, the sanitation crew was expected to clean dozens of tubs, tables, carts, and the facility’s single processing room floor. Also, they were expected to haul heavy crates and handle raw chicken at the end of their shift. When a second processing room opened in May 2016, plant managers expected a crew of about the same size to complete the same tasks for both rooms. Despite the significant increase in workload, plant managers expected all the work to be performed in the same shift. Consequently, supervisors enforced increasingly dangerous work speeds.

For example, workers tasked with removing inches of standing water from both processing room floors were forced to work without stopping until the task was completed, as Supervisor ██████ shouted pejorative comments at the Complainants and other workers to move faster. The task required sweeping with a floor squeegee for 45 minutes or longer, causing a fall hazard, shortness of breath, chest pains, and back pain. Similarly, after the second department opened, workers were expected to clean almost twice the number of bins during the first part of their shift. If the Complainants did not complete the task in a set time frame, the overage was deducted from their 30-minute break. Also, after cleaning the plant, sanitation workers were forced to compete with one another to obtain one of a limited number of crates of chicken to unpack onto tables. The workers risked getting a point if they were observed without a crate. This practice exposed the Complainants to known slip and fall hazards as they raced for crates that weighed 80 pounds or more. Upon information and belief, a worker known as ██████ fell while performing this task.

2. Denial of Adequate Toilet Facilities and Unreasonable Restrictions on Their Access, in Violation of 29 C.F.R. § 1910.141(c) and Relevant OSHA Interpretations.

The number of toilets available to workers at Farm Fresh Foods was woefully inadequate. Despite employing hundreds of workers, they provided male workers like the Complainants access to a mere two toilets, far fewer than the number required under OSHA standards. 29 C.F.R. § 1910.141(c) Table J-1 (requiring at least six toilets for worksite with 111 to 150 employees, and an extra toilet for every additional 40 employees).

Also, Farm Fresh Foods imposed unreasonable restrictions on access to toilet facilities, in violation of the standards and a relevant 1998 Interpretation which “requires employers to make toilet facilities available so that employees can use them when they need to do so.” The Complainants and other sanitation workers were regularly denied permission to use the bathroom outside of their scheduled 30-minute break. At times, the Complainants waited hours to relieve themselves. When allowed to use the bathroom outside the 30-minute break, they were pressured to rush, and faced harassment by Supervisor ██████, who sometimes timed their bathroom visits.

3. Failure to Maintain Drainage of Walking Working Surfaces, in Violation of 29 C.F.R. §§ 1910.22, 1910.141.

Farm Fresh Foods failed to adequately maintain the drainage system on workroom floors, in violation of applicable OSHA standards. 29 C.F.R. §§ 1910.22, 1910.141 (mandating maintenance of drainage systems and provision of dry standing places or appropriate waterproof footwear). The Complainants routinely hosed down and washed workroom floors with inadequate drainage and damaged or defective footwear. As several inches of standing water accumulated and mixed with chicken fat, the Complainants were exposed to recognized slip and fall hazards. Although [REDACTED] suggested to Supervisor [REDACTED] that additional drainage was required, his complaints were dismissed and he was told to focus on his work.

4. Failure to Provide and Maintain Personal Protective Equipment, in Violation of 29 C.F.R. §§ 1910.132(a), 1910.133, and 1910.136.

The employer failed to provide masks to sanitation workers and failed to replace damaged eye protection and footwear, in violation of OSHA standards. 29 C.F.R. § 1910.132(a) (mandating that employers provide and maintain personal protective equipment for the eyes, face, and extremities where hazardous environments create a risk of injury); 29 C.F.R. § 1910.133 (mandating that employers provide appropriate eye protection where workers are exposed to eye hazards from flying particles, liquid chemicals, and chemical vapors); 29 C.F.R. § 1910.136 (mandating that employers ensure workers wear protective footwear where risk of certain foot injuries exist).

The Complainants and other sanitation workers were routinely exposed to chlorine solvents and vapors and water contaminated with bacteria while cleaning workroom floors, yet they were not given any masks to wear. Standing water contaminated with chicken waste splashed into [REDACTED] mouth and onto his face at times. The single pair of plastic eyeglasses provided by the employer became fogged or scratched after a couple of weeks, but Supervisor [REDACTED] rarely replaced them without charge to workers. Similarly, the employer provided plastic galoshes, but once the tread wore thin, workers were forced to continue using them on slippery floors, posing an imminent risk of slip and fall injuries. Workers wore the same plastic galoshes with no steel toe protection while hoisting crates of chicken weighing 80 pounds or more.

5. Failure to Provide Reasonably Sanitary Worksite, in Violation of the General Duty Clause and 29 C.F.R. § 1910.141(a).

Farm Fresh Foods created a menace to health likely to cause serious physical harm to the Complainants and other workers, in violation of the General Duty Clause and applicable regulations. 29 U.S.C. § 654(a); 29 C.F.R. § 1910.141(a)(4)(ii) (requiring removal of waste as needed to keep place of employment in a sanitary condition). The plant's inadequate drainage contributed to its unsanitary condition. Standing water mixed with chicken waste on workroom floors each night. At times, contaminated water splashed into [REDACTED] mouth and onto his face, creating a likely risk of his contracting harmful bacteria. Because of the drainage problems, [REDACTED] frequently worked in standing water and developed a fungus on his toenails during his employment with Farm Fresh Foods.

Also, assigning sanitation workers to handle raw chicken created unsanitary conditions at the plant. Sanitation workers were not given clean aprons or gloves to handle chicken. The high risk of contaminating the product worried the Complainants and many in the sanitation crew. First-shift workers, who entered as the sanitation crew handled chickens, were also exposed.

6. Failure to Designate and Train Personnel to Provide First Aid, in Violation of 29 C.F.R. § 1910.151.

Upon information and belief, the plant was not near a clinic and lacked adequately trained first aid providers, in violation of OSHA standards. 29 C.F.R. § 1910.151. Neither Complainant was aware of any medical station at the plant. Minor cuts or abrasions were handled by Supervisor [REDACTED] who handed out bandages. [REDACTED] saw a co-worker fall and hurt his back, and the employers did not provide him timely medical attention.

[REDACTED] respectfully requests that OSHA interview plant managers to determine whether it employs any medical staff or first aid providers, review all OSHA 300 logs for injuries at this plant and determined whether injuries are being under-reported, and conduct off-site interviews with current and former workers to gauge the extent of denial of medical attention and underreporting of work-related injuries.

7. Retaliation under the OSH Act for Exercising Right to Report Health and Safety Hazards and to Request Abatement Measures, in Violation of 29 U.S.C. 660(c)(1) and 29 C.F.R. 1903.11(d).

Farm Fresh retaliated against the Complainants by firing him because of their repeated complaints about health and safety hazards involved in their work. [REDACTED] raised concerns about dangerously fast work speeds, denial of bathroom access, slip, trip and fall hazards, inadequate drainage and ventilation, and defective equipment. [REDACTED] also raised concerns about dangerously fast work speeds and denial of breaks. Many times, when they complained, Supervisor [REDACTED] labeled them troublemakers and cautioned them to silence their complaints. Supervisor [REDACTED] suspended the Complainants and other sanitation workers just as they raised concerns about the practice of competing for limited crates, which posed a likely risk of serious injury. [REDACTED] held a reasonable belief that this practice was dangerous because he had seen a co-worker, [REDACTED] fall and hurt his back while performing it. The Complainants have detailed the retaliation they experienced in separate whistleblower complaints filed concurrently with these hazards complaints.

Relief Requested

The Complainants brought these violations to the attention of supervisors, managers and Human Resources personnel of Farm Fresh Foods while they were employed there, but they were not remedied. The Complainants are concurrently filing charges of unfair labor practices with the National Labor Relations Board. For these reasons, the Complainants respectfully ask OSHA to take the following measures to ensure that Farm Fresh Foods complies with the law and promptly abates the hazards at its plant:

- 1) Walk-around inspection and confidential off-site employee interviews;
- 2) Citation or other order finding violations of applicable OSHA regulations;
- 3) Requirement that offending practices cease immediately;
- 4) Assessment of fines in an amount sufficient to deter future violations;
- 5) Publication and disclosure; and
- 6) Any and all other remedies allowable by law.

The Complainants request that the results of any and all investigations, including any appeals of citations by Farm Fresh Foods or Triple F Staffing, be communicated to them through his attorneys. If Farm Fresh Foods or Triple F Staffing request informal conferences to address citations, the Complainants request to be informed through their attorneys so that they may participate in the conferences. Please contact us if you have any questions or to set up an interview with the Complainants. Please be advised that both Complainants will require Spanish interpretation for any interviews. You may reach us at (404) 521-6700, laura.rivera@splcenter.org, and isabel.otero@splcenter.org.

Respectfully,



Laura Rivera
Law Fellow



Isabel Otero
Outreach Paralegal

U. S. Department of Labor
Occupational Safety and Health Administration
Notice of Alleged Safety or Health Hazards

		Complaint Number		
Establishment Name	Farm Fresh Foods, LLC, and Triple F Staffing, LLC			
Site Address	5016 Grimes Drive Guntersville, Alabama 35976			
	Site Phone	(256) 264-9180	Site FAX	
Mailing Address	same as above			
	Mail Phone		Mail FAX	
Management Official	Price Pass, Personnel Manager	Telephone	(256) 264-9180	
Type of Business				
HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.				
<p>Please see the attached Letter RE: Complaint of Safety and Health Hazards at Farm Fresh Foods, LLC poultry processing plant in Guntersville, Alabama</p>				
Has this condition been brought to the attention of:	<input checked="" type="checkbox"/> Employer	<input type="checkbox"/> Other Government Agency(specify)		
Please Indicate Your Desire:	<input type="checkbox"/> Do NOT reveal my name to my Employer			
	<input checked="" type="checkbox"/> My name may be revealed to the Employer			
The Undersigned believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form.	(Mark "X" in ONE box)			
	<input type="checkbox"/> Former Employee	<input type="checkbox"/> Federal Safety and Health Committee		
	<input type="checkbox"/> Current Employee	<input type="checkbox"/> Representative of former employee		
	<input type="checkbox"/> Representative of Employees	<input checked="" type="checkbox"/> Other (specify)		
Complainant Name	[REDACTED]		Telephone	(404) 521-6700
Address(Street, City, State, Zip)	Address of legal representative: Southern Poverty Law Center 1989 College Ave. NE Atlanta, Georgia 30317			Tel. of legal representative
Signature	<i>Laura G Rivera Swanson</i>		Date	July 22, 2016
If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:				
Organization Name:	Your Title:			
Southern Poverty Law Center		Laura Rivera, Law Fellow		

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Complainant Name		Telephone	(404) 521-6700	
Address(Street, City, State, Zip)	Address of legal representative: Southern Poverty Law Center 1989 College Ave. NE Atlanta, Georgia 30317		Tel. of legal representative	
Signature	<i>Laura G Rivera Smoran</i>		Date	July 22, 2016
If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:				
Organization Name: Southern Poverty Law Center		Your Title: Laura Rivera, Law Fellow		