

STATE OF SOUTH DAKOTA



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July 14, 2004

RE: **Sun Prairie Hog Farm/Rosebud Indian Reservation  
Mellette County, South Dakota**

Dear :

You wrote to my office after a full page ad appeared in the June 13th, 2004, Rapid City Journal and Sioux Falls Argus Leader. The ad was placed by the Humane Farming Association of San Rafael, California (hereafter HFA). The ad contains five photographs. One shows a young pig with cropped ears. One shows a pig with an injured front left leg. One shows a pig biting another pig's ear and two photos show pigs with abdominal ruptures. The ad asks you to urge me "to make sure those responsible for these abuses be prosecuted to the fullest extent of the law," and hints that you make a tax deductible contribution to HFA.

There is an old saying "there are two sides to every story."  
This is the other side of the story.

**BACKGROUND**

In the spring of 1998, the Rosebud Sioux Tribe and Sun Prairie Farms negotiated a lease to develop a multi-site hog facility on tribal trust land in Mellette County, South Dakota. Because this project was in Indian Country, the U.S. Bureau of Indian Affairs (BIA), the U.S. Environmental Protection Agency, and the Rosebud Sioux Tribe (not the State of South Dakota) were the agencies responsible for insuring that the operation was environmentally sound and that groundwater supplies were adequately protected.

On August 19, 1998, the Rosebud Sioux Tribal Council approved the lease for the project. On September 16, 1998, the BIA approved the lease and on September 21, 1998, the Rosebud Sioux Tribe and Sun Prairie began construction on the project.

Why would the tribe make such an agreement? The answer is "employment." Tribal members on the Rosebud Reservation experience one of the highest unemployment rates in the country. Rosebud Sioux Tribal Chairman, Norman Wilson, estimated that the completed project could employ as many 250 tribal members. Wilson said "generations have grown up without an opportunity to work. They've become almost totally reliant on welfare programs. I tried to change that around."

Opposition to Sun Prairie Farms formed almost immediately. On November 23, 1998, HFA and several other groups sued the U.S. Secretary of Interior and the United States in U.S. District Court in Washington D.C. to cancel the BIA approval of the lease by the Rosebud Sioux Tribe to Sun Prairie. As a result, on January 27th, 1999, the Interior Department cancelled the lease (after Sun Prairie had spent over five million dollars on construction).

The Tribe fought back. On February 9, 1999, the Rosebud Sioux Tribe and Sun Prairie sued the Secretary of Interior demanding that the lease be reinstated. The HFA intervened in that lawsuit trying to stop the project. On February 3, 2000, U.S. District Judge Charles Kornmann ruled in favor of the Rosebud Sioux Tribe and Sun Prairie and ordered the BIA to reinstate the lease and allow Sun Prairie and the tribe to proceed with the hog project. The Secretary of Interior and the HFA appealed to the Eighth Circuit Court of Appeals in St. Louis.

During the appeal process, the Rosebud Sioux Tribe held the regular tribal general election and the composition of the tribal council changed. The new tribal council opposed the Sun Prairie project. The tribe then switched sides in the lawsuit and now opposed the project they once favored. Since the Tribe switched sides, Sun Prairie was now alone asking the court to enforce the lease. On April 5, 2002, the Eighth Circuit Court of Appeals reversed Judge Kornmann and held that Sun Prairie did not have standing to question the Secretary of Interior's decision to cancel the lease. Sun Prairie appealed to the United States Supreme Court. That appeal was denied in February of 2003. In the meantime, Sun Prairie filed a second lawsuit in U.S. District Court for South Dakota. The second lawsuit contends that the federal government and the Rosebud Sioux Tribe have unconstitutionally interfered with the hog farm and should repay

Sun Prairie for any losses if the operation is shut down. That litigation is not yet resolved. HFA has also attempted to force closure of the facility through an action in the Rosebud Sioux Tribal Courts. The status of that case is not known.

Although HFA, the BIA and the Rosebud Sioux Tribe won the lawsuit to cancel the lease, the BIA and the Tribe have allowed Sun Prairie to continue to operate.

#### THE CURRENT SITUATION

In November, 2003, HFA sent to my office a large number of photographs and video tapes which HFA claimed were taken at the Sun Prairie facility. HFA also provided transcripts of statements purportedly made by employees of Sun Prairie. These photographs, videos and statements purported to show abusive and neglectful treatment of Sun Prairie hogs by the employees and officers of Sun Prairie Farms. The Sun Prairie employees are virtually all American Indians. The officers and the corporation are non Indians.

Typically, the HFA evidence would be used to apply for a search warrant allowing law enforcement to search the facilities to ascertain if HFA's allegations were true. This would be, in effect, a surprise inspection. However, on November 20th, less than ten days after contacting our office, HFA issued a national press release announcing to the world that they had asked the South Dakota Attorney General to investigate. Sun Prairie Farms also reads the newspapers. Consequently, within a week of the HFA press release, lawyers for Sun Prairie Farms contacted my office and invited us to send inspectors whenever we chose. We accepted their offer. However, HFA's announcement destroyed any ability we might have had to do a surprise inspection.

#### INSPECTION RESULTS

On December 23, 2003, my office assembled a team of inspectors consisting of two employees of the South Dakota Department of Environment and Natural Resources, an agent of the Division of Criminal Investigation, a veterinarian from the Animal Industry Board and a swine specialist from South Dakota State University. The team invited the Environmental Protection Agency to send an inspector but EPA refused. The team traveled to Sun Prairie and inspected inside of several (but not all) barns. The team also inspected the exterior areas of all the barns including the waste water facilities. The team made the following observations. The waste flushing systems within the barns were operating properly and flushed every fifteen minutes. The automatic feeders and waterers were all operational. The barns were extremely clean.

Little dust was present. The air quality was good. In a barn of 2400 animals, six pigs were observed with abdominal ruptures (abdominal ruptures in hogs are a result of genetics, not management practices). In other words, hogs get hernias just like people do. The pigs appeared to be healthy and contented. In fact, the SDSU swine specialist said:

**"I find this site to be managed at a level comparable to the top 25% of the operations in South Dakota. I found no evidence of animal abuse nor any evidence to support the other claims made against this operation. I believe it to be a well run and managed operation and the manager and employees need to be commended for their efforts."**

Two minor violations were observed in the exterior waste water treatment systems. Because the violations were observed on Indian Country, the violations were submitted to the EPA.

#### SUMMARY

Three points need to be made. First, Sun Prairie Farms is located in Indian Country controlled by the Rosebud Sioux Tribe largely to provide control and regulation by the federal government and the Tribe and to avoid regulation by the State of South Dakota. Consequently, any criminal abuse of Sun Prairie hogs by tribal member employees are the exclusive responsibility of either the federal government or the Rosebud Sioux Tribe authorities. The State of South Dakota simply cannot prosecute those cases.

Second, the State of South Dakota could prosecute the non-Indian officers of Sun Prairie Farms or the corporation itself. For that reason, the State sent an inspection team to Sun Prairie Farms but found no evidence which would support any type of criminal charges against anyone, Indian or non-Indian.

Third, HFA has a vegetarian agenda designed to destroy the livestock industry in South Dakota and throughout the world. Their website discloses that one of their goals is to "eliminate or significantly reduce the amount of animal flesh in your diet." Consequently they have invested much time and effort to close Sun Prairie Farms even before it started.

A vegetarian lifestyle is a matter of personal choice. However, my job is to enforce the criminal laws of the State of South Dakota but only based upon evidence. We put together a team of experts, conducted an inspection and found no evidence to support

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HFA's allegations. Consequently, this office will not be taking any enforcement action against Sun Prairie Farms or their officers based on the information now available to us. We have, however, provided the evidence we have to the Tribe for their use. Thank you for listening to the other side of the story.

Very truly yours,

Larry Long  
SOUTH DAKOTA ATTORNEY GENERAL

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