

4. As a result of the Inspection, on October 17, 2016, Complainant issued the following Citation and Notification of Penalty (herein collectively referred to as the “Original Citation”):

CITATION 01 (Willful Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1910.212(a)(3)(ii)	10/25/2016	\$70,000.00

CITATION 02 (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1910.132(d)(1)(i)	10/25/2016	\$ 7,000.00.

5. The Respondent submitted a timely Notice of Contest.
6. A Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the “Rules”).
7. Respondent and Complainant waive the presence of a court reporter at the Hearing and the making of a transcript of the Hearing. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing and both parties consent to the conduct of this Hearing by the Undersigned and to entry of this Order.
8. Respondent posted the Original Citation and the Hearing Order as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement period.
9. Respondent confirms that the violation alleged in the Original Citation as amended pursuant to Complainant’s Motion has been abated.
10. The parties agree to bear their own attorney's fees, costs and other expenses that have been incurred in connection with any stage of these proceedings up to and including the filing of this Order.
11. Complainant and Respondent agree that provided the respective Motions of each party are granted (a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary

hearing of this matter; (b) this Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to Complainant's Motion; (c) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit, (d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or waiver of defenses; provided however that in any subsequent proceeding with respect to matters covered by this Order brought directly under the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "Act") by Complainant, this Order shall have the full force and effect of a final order; and (e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purpose except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes; (f) the penalty for each Item designated in the Original Citation as amended pursuant to Complainant's Motion has been calculated in accordance with the standard Field Operations Manual procedure and giving consideration by Complainant to standard mitigating factors and to specific factors applicable to Respondent; and (g) there has been no employee objection to the reasonableness of any abatement period.

12. Respondent agrees to continue to use its best efforts to comply with the requirements of the Act. Further :

- Respondent will provide to Complainant documentation confirming that at the time of an accident on April 26, 2016 Smithfield already had purchased the BladeStop system, the equipment had been delivered, and Smithfield was preparing for installation;
- Respondent agrees to provide BladeStop Training to those employees using the BladeStop system, and specifically agrees to the following:
 - To maintain a roster of people who underwent BladeStop training with the manufacturer ("Manufacturer-Trained Trainers");
 - To maintain a specific number of designated Manufacturer-Trained Trainers so that if any of them leave the employment of the Respondent, Respondent will always have someone who has been trained to be a Manufacturer-Trained Trainer;
 - To designate specific Manufacturer-Trained Trainers to provide training to another group of Respondent's employees (such group referred to as "2nd Tier Trainers"); Respondent shall maintain a roster of the 2nd Tier Trainers; in summary, Respondent will have a group of employees who were trained by the manufacturer of the BladeStop system (the Manufacturer-Trained Trainers), and a group of employees trained by the Manufacturer-Trained Trainers (the 2nd Tier Trainers);
 - The 2nd Tier Trainers will train the employees whose work involves using the BladeStop system;
 - Respondent shall submit to NCDOL its current training documentation for the BladeStop system;

- Respondent shall specifically state in its training documentation for the BladeStop system that only those gloves designated by Respondent may be used by employees working the BladeStop system;
- Respondent shall conduct frequent inspections of the saws using the BladeStop system (i.e. those saws used for the job of cutting pork loins where an operator's unprotected hands must be closer than 6 inches to the saw blade) in order to ensure that the saws and the BladeStop system are operating correctly;
- Respondent and Complainant agree that Respondent is using the BladeStop system as a means of abatement for Citation 01 Item 001 until Federal OSHA determines whether the BladeStop system is an acceptable means of abatement; if Federal OSHA decides that the BladeStop system is not an acceptable means of abatement, Respondent agrees to use additional or different abatement.
- Respondent will pay the penalty of \$35,000.00 assessed in this matter within 10 days of the date of this Order (payment is to be by check payable to North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318065737) and mailed to Budget-Collections, North Carolina Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.

MOTIONS

Complainant moved to make the following amendments to the Original Citation ("Complainant's Motion"):

- a) Reclassify Citation 01 Item 001 from 'Willful Serious' to 'Serious' and reduce the associated penalty from \$70,000.00 to \$35,000.00; and**
- b) Delete Citation 02 Item 001 and its associated penalty in its entirety.**

Except as expressly set forth in Complainant's Motion, the Original Citation shall remain unmodified or amended.

Respondent did not object to Complainant's Motion.

Respondent requested that upon the granting of Complainant's Motion that the Undersigned consider the following motion by the Respondent ("Respondent's Motion"):

to withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion set forth above.

Complainant did not object to Respondent's Motion.

FINDINGS OF FACT

Based on the Stipulations at the time of the Hearing and the record, the Undersigned makes the following Findings of Fact:

1. This Court has jurisdiction over the parties and the subject matter of this Hearing.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. Neither party has any objection, procedural or otherwise, to this Hearing.
4. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.


CONCLUSIONS OF LAW

The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**; Respondent shall pay the penalty of \$35,000.00 in the manner set forth in the Stipulations.

This 8th day of March, 2018.



R. Joyce Garrett
Administrative Law Judge

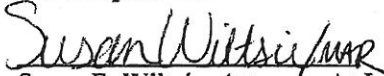
Smithfield Farmland Corp. 2016-5868

CONSENTED TO:

For Complainant

Larissa Williamson, Special Deputy Attorney General
North Carolina Department of Justice

For Respondent

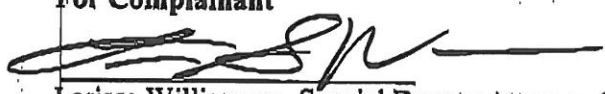

Susan F. Wiltsie, Attorney At Law
Hunton & Williams LLP


Melissa A. Romanzo, Attorney at Law
Hunton & Williams LLP

Smithfield Farmland Corp. 2016-5868

CONSENTED TO:

For Complainant



Larissa Williamson, Special Deputy Attorney General
North Carolina Department of Justice

For Respondent

Susan F. Wiltsie, Attorney At Law
Hunton & Williams LLP

Melissa A. Romanzo, Attorney at Law
Hunton & Williams LLP.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing FINAL ORDER upon:

SMITHFIELD FARMLAND CORPORATION
424 E. RAILROAD STREET
CLINTON, NC 28328

certified mail, return receipt requested, and upon:

LARISSA WILLIAMSON
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH, NC 27602-0629


by USPS first class mail, and upon:

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH, NC 27699-1101

by depositing a copy of the same in the NCDOL Interoffice Mail.

THIS THE 14 DAY OF MARCH 2018.

ARLENE K. EDWARDS
CHAIRMAN



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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