

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

NOLECHEK'S MEATS, INC.,
a Wisconsin corporation;
WE'RE THE WURST
INCORPORATED,
an Oregon corporation; and
GOLDEN CITY MEATS, LLC,
a Missouri limited liability
company,

Plaintiffs,

v.

THOMAS J. VILSACK, in his
official capacity as United States
Secretary of Agriculture;
U.S. DEPARTMENT OF
AGRICULTURE; and FOOD
SAFETY AND INSPECTION
SERVICE,

Defendants.

No. 3:21-cv-762

**DECLARATION OF ROBERT LONG ON BEHALF OF
GOLDEN CITY MEATS, LLC**

Pursuant to 28 U.S.C. § 1746, I, Robert Long, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the statements herein and, if called to testify at deposition or trial, I would testify as follows.
2. I reside in Lawrence County in the state of Missouri.
3. I am the primary member of Golden City Meats, LLC (“Golden City”), a Missouri limited liability company with its principal place of business located in Barton County, Missouri. Golden City is a party to this lawsuit pursuant to the first amended complaint, and I am authorized to speak on its behalf.
4. Golden City is a family-run slaughterhouse and premium meat establishment located in Golden City, Missouri, and its slaughterhouse operations offer full-service capabilities to a number of family farmers and ranchers located in Missouri, Arkansas, Oklahoma, and Kansas. Including its owners and employee team members, Golden City has fewer than 100 employees.

5. Golden City has been in continuous operation since 1972, and I am the current owner and member and have been overseeing Golden City's operations since 2008.

6. In 1972, Golden City received its Federal Grant of Inspection and command-and-control authority; in 1999 it completed its HACCP plan; and in 2008 the Federal Grant of Inspection was changed to reflect Golden City's current business structure and my ownership interest. The process to earn the Federal Grant of Inspection included developing written Sanitation Standard Operating Procedures, conducting a hazard analysis, developing and validating an HACCP plan, and implementing these procedures in accordance with federal regulatory requirements.

7. Golden City's USDA Mark of Inspection numbers are 8725 and P8725 (poultry).

8. Becoming an FSIS-inspected establishment opened up a much larger market for Golden City's products by allowing it to provide full-service slaughtering inspection services to family farmers and ranchers within Missouri and out-of-state. Since 2008, Golden City has expanded its in-state and out-of-state slaughtering inspection operations into a significant component of its business.

9. FSIS inspectors and fellow meat product specialists alike have repeatedly praised Golden City's HACCP program. Golden City's HACCP program demonstrates its commitment to food safety and helps educate its customers.

10. During the global pandemic, Golden City practiced social distancing and followed all FSIS-required procedures with the exception of mandatory masking for its employees. To assist its employees with not having to be exposed to the virus while out in public, Golden City further elected to voluntarily provide free lunch to its employees on site.

11. On August 5, 2021, Golden City received a copy of FSIS' initial

notice informing of the impending mask policy.

12. On August 18, 2021, Golden City participated in a conference

call with representatives from USDA to discuss the masking policy.

13. On August 23, 2021, Golden City officially received copies of Notices 34-21 and 30-21 from their assigned FSIS inspector.

14. On August 26, 2021, FSIS inspectors arrived at Golden City's facility but refused to perform the necessary inspection due to

Golden City's employees not being masked and left without performing an inspection.

15. This refusal by FSIS to perform the inspection harmed Golden City, as it had 8 live beef cattle and 20 live hogs in pens on the slaughterhouse floor waiting to be processed and inspected by FSIS, and Golden City could not proceed without FSIS performing its inspection.

16. On August 26, 2021, FSIS issued Golden City its Notice to Withhold the Marks of Inspection. The Notice to Withhold the Marks of Inspection letter is attached to the first amended complaint as Exhibit H.

17. On September 10, 2021, Golden City participated in a Zoom video conference with USDA officials organized by the United States Cattleman's Association, in which Golden City officials relayed their concerns to USDA regarding Notice 34-21, but to no avail.

18. Between August 26 and November 8, 2021, and despite Golden City's repeated requests to perform inspection services in accordance with its Federal Grant of Inspection, FSIS declined to perform inspection services on Golden City's premises.

19. On November 8, 2021, an official from FSIS met with Golden City at their facility and informed them that, because at that time

Barton County, MO, had levels of community transmission below the “moderate” threshold set by the CDC, Notice 34-21 did not apply and they would be inspected, but the Notice would apply in the future if levels of community transmission increased. The USDA official filed an official report to this effect the following day.

20. On November 12, 2021, the CDC downgraded Barton County, MO because of increased measurement of community transmission, and FSIS again refused to inspect Golden City’s facility.

21. The Withholding Action previously issued by FSIS on August 26, 2021, immediately prevented Golden City from selling its products within Missouri or out of state and prevented Golden City from providing its slaughterhouse inspection services to a significant number of family farmers and ranchers in the Midwest.

22. Further, because withholding actions are only issued for serious breaches of regulations such as inadequate sanitary conditions and failure to adequately control pathogens, the Withholding Action seriously harmed Golden City’s reputation and standing in the community, particularly with Midwest family farmers and ranchers and throughout Missouri and the country.

23. Despite these challenges, Golden City has continued to maintain that the FSIS policy is illegal and beyond the agency's legal authority.

24. Despite our objection to FSIS's withdrawal of Golden City's Mark, Golden City has abided by the law in not participating in selling products in or out of state and not providing USDA-inspected slaughterhouse services to our family farmer clients and customers, as we believe this is the responsible action to take under the circumstances.

25. In the course of just a few months, FSIS' withholding of Golden City's USDA Mark and its refusal to perform inspections, has already cost Golden City tens of thousands of dollars in lost business revenue, reduced production of at least 250,000 pounds of meat not being inspected and then sold in the open market, and in the forced restructuring of its labor force and business procedures.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on January 21, 2022.

A handwritten signature in black ink, appearing to be 'RL', is written above a horizontal line.

Robert Long
Member of Golden City Meats, LLC