

May 11, 2020

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***RE: Essential Protections for Our Essential Meatpacking Plant Workers***

Dear Directors:

First, we would like to extend our gratitude for your hard work in response to the COVID-19 pandemic. This is undoubtedly a challenging time for your office, and we appreciate your commitment to public health and safety in the counties you serve and surrounding communities.

In 1911, owners of New York City's Triangle Shirtwaist Factory in Greenwich Village packed workers, mostly immigrants, into a crowded and dangerous work environment. When a fire erupted, more than one hundred women and children perished, many leaping from the building to their death.

Today, more than one-hundred years later, profit-driven owners of Nebraska meatpacking plants are crowding workers, mostly immigrants, on assembly lines, processing meat, chicken, and poultry. In the face of health standards unanimously counseling against this practice, meatpacking employers are inviting a fire of COVID-19 to spread through plants -- as has already happened in Dakota City and Grand Island<sup>1</sup> and threatens to do in our capital city.<sup>2</sup>

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<sup>1</sup> Dakota County now has more COVID-19 cases than any county in the state. Erin Duffy and Nancy Gaarder, *Dakota County now leads Nebraska in coronavirus cases*, OMAHA.COM, May 8, 2020, [https://www.omaha.com/news/state\\_and\\_regional/dakota-county-now-leads-nebraska-in-coronavirus-cases/article\\_c05e83e9-b83d-5ed2-a4be-d8615837043e.html](https://www.omaha.com/news/state_and_regional/dakota-county-now-leads-nebraska-in-coronavirus-cases/article_c05e83e9-b83d-5ed2-a4be-d8615837043e.html).

<sup>2</sup> The Lancaster County Health Department reports that nearly one-third of Lancaster County cases are related to the Smithfield plant in nearby Crete. Joanne Young, *Crete Smithfield plant contributing to rise in Lincoln COVID-19 cases*, LINCOLN JOURNAL STAR, May 4, 2020 Updated May 5, 2020, [https://journalstar.com/lifestyles/health-med-fit/health/crete-smithfield-plant-contributing-to-rise-in-lincoln-covid-19-cases/article\\_f0c0277a-15e7-5e51-9fa9-5a6e6b575cf9.html](https://journalstar.com/lifestyles/health-med-fit/health/crete-smithfield-plant-contributing-to-rise-in-lincoln-covid-19-cases/article_f0c0277a-15e7-5e51-9fa9-5a6e6b575cf9.html).



Indeed, we learned over the weekend that public health officials in Grand Island sounded an alarm, calling for closure of the JBS plant, only to have their public safety efforts thwarted by Governor Ricketts.<sup>3</sup> After local physicians called for closure of the plant, and Governor Ricketts interceded to ensure it remain open to prevent “civil unrest,” COVID-19 cases skyrocketed from a few dozen to more than 1,200, overwhelming the local hospital and demonstrating how quickly the virus can spread when politics, coupled with the employer’s desire for higher profit, are put before the safety of those on the front-lines at these plants.<sup>4</sup>

For the safety and health of your community, please proceed independently of the Governor on this issue.

**Enclosed please find a petition signed by more than a thousand Nebraskans urging you to take action to protect our essential meatpacking plant workers so all Nebraskans are safe.** At this critical moment in Nebraska’s history, we respectfully call upon your department to exercise its statutory authority to “make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in the county or counties under [your] jurisdiction.”<sup>5</sup>

President Trump’s executive order, along with Governor Ricketts’ response at the state level, magnifies the need for action at the local level and provides no basis to withhold action. By its terms, the executive order provides that meat and poultry processors “continue operations consistent with the guidance for their operations jointly issued by” the CDC and OSHA.<sup>6</sup> In other words, the order does not place our need for hamburger and chicken above guidelines for worker safety. The problem is there is no reason to believe President Trump’s Department of Agriculture will aggressively enforce the CDC and OSHA guidance.

More importantly, the Order’s recognition of meat processing as essential infrastructure means meatpacking employees should be recognized as essential workers, along with front-line healthcare workers and first-responders. For their service, plant workers should be honored and protected from COVID-19, not blamed by our leaders for being infected because of their “community,” or their culture, or their living arrangements.<sup>7</sup>

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<sup>3</sup>Michael Grabell, *What Happened When Health Officials Wanted to Close a Meatpacking Plant, but the Governor Said No*, PROPUBLICA, May 7, 2020, <https://www.propublica.org/article/what-happened-when-health-officials-wanted-to-close-a-meatpacking-plant-but-the-governor-said-no>.

<sup>4</sup> *Id.*

<sup>5</sup> Neb. Rev. Stat. Section 71-501.

<sup>6</sup>Executive Order on Delegating Authority Under the DPA with Respect to Food Supply Chain Resources During the National Emergency Caused by the Outbreak of COVID-19, WHITEHOUSE.GOV (April 28, 2020), available at <https://www.whitehouse.gov/presidential-actions/executive-order-delegating-authority-dpa-respect-food-supply-chain-resources-national-emergency-caused-outbreak-covid-19/>.

<sup>7</sup> Paul Hammel, Erin Duffy, and Martha Stoddard, *Ricketts defends meatpacking plants, says they need to stay open despite coronavirus cases*, OMAHA.COM, Apr. 23, 2020, [https://www.omaha.com/news/state\\_and\\_regional/ricketts-defends-meatpacking-plants-says-they-need-to-stay-open-despite-coronavirus-cases/article\\_300eda3a-a3bd-5276-884f-c4e5fb90db5b.html](https://www.omaha.com/news/state_and_regional/ricketts-defends-meatpacking-plants-says-they-need-to-stay-open-despite-coronavirus-cases/article_300eda3a-a3bd-5276-884f-c4e5fb90db5b.html).



Though some meatpacking employers are employing physical barriers, distributing masks, utilizing employee health screenings, and taking other measures, such efforts have been insufficient. Information from public officials makes it undeniably clear that testing, transparency, and social distancing are critical to fighting COVID-19 in every community and in every workplace. Yet, there have been no reports of a single plant implementing a testing program, spacing workers six feet apart, *and* being transparent to employees and the public on the number of COVID-19 cases inside the plant.

We have reviewed the Department of Labor’s Infection Control Plan, *Coronavirus Disease 2019* (published April 1, 2020); the “Meat Processing Facility COVID-19 Playbook” published by the Global Center for Health Security at UNMC (“Playbook”)(published April 20, 2020); and Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA).<sup>8</sup> We are also aware of the assistance UNMC has provided by visiting plants and consulting with management. However, unenforceable suggestions from these experts are also not enough. Your community need its health officials to “make and enforce regulations.”

We reject the false choice, presented by some officials, of either closing the plants altogether or risking the health and safety of workers. Plants can continue to operate and workers can simultaneously be protected, but for this to happen industry executives and plant leadership must follow all health officials’ recommendations. As local health department Directors, have authority under Nebraska law to protect the safety of these hard-working, essential workers, by inspecting meatpacking plants and ensuring plant owners implement each of the measures suggested by the aforementioned public health guidelines, including:

- requiring a minimum of six feet distance between workers on the line to avoid contact or inhaling airborne droplets containing infectious agents;
- requiring notification of local, state and federal health officials and of co-workers of positive COVID-19 employees;
- expanding and prioritizing diagnostic testing to all workers who are symptomatic and those with whom they have had contact; and
- providing appropriate Personal Protective Equipment (PPE) and training on its correct use to all employees.

Each of these measures are consistent with guidance from the CDC, OSHA and UNMC’s Playbook. And they can be implemented without closing plants or disrupting the food supply. The plants can accomplish distancing by slowing lines and staggering shifts. While that may come at some economic cost, it would seem

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<sup>8</sup> Meat and Poultry Processing Workers and Employers, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>.



the generous federal aid provided to the Nebraska meatpacking industry could help offset such a cost.

The law requires action. As you are aware, provisions of the Nebraska Meatpacking Industry Workers Bill of Rights<sup>9</sup> support implementation of the foregoing measures. In relevant part, the Workers Bill of Rights requires the industry to, *inter alia*:

- Provide the “safest possible working conditions;”<sup>10</sup>
- Allow discussion of “safety issues arising out of line speed” at meetings of a Safety Committee with worker representatives;
- Allow workers to make complaints with “fear of reprisal;” and
- Provide “complete information” and notice of “occupational hazards” related to a worker’s duties.

More directly, your department has statutory authority to conduct investigations, and make and enforce regulations comprehensively embodying the CDC and OSHA guidelines to protect the health of meatpacking workers, their families, and other members of your community. This specifically includes investigation of “any contagious or infectious disease and adopt[ion] of measures, with the approval of the Department of Health and Human Services, to arrest the progress” of infectious disease.<sup>11</sup>

Please advise whether your Department has adopted any regulations or conducted any inspections or inquiries of meatpacking plants pursuant to your authority. If not, is it your intention to conduct inspections or to enact regulations requiring adherence to all aspects of the foregoing health guidelines? The workers, and the communities in which they live, deserve your candid response.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Adam J. Sipple".

Adam J. Sipple  
Legal Director

Encl.

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<sup>9</sup> Neb. Rev. Stat. Section 48-2213

<sup>10</sup> Meatpacking Bill of Rights, NEBRASKA DEPARTMENT OF LABOR, [https://dol.nebraska.gov/LaborStandards/WorkerRights/MeatpackersBOR\\_](https://dol.nebraska.gov/LaborStandards/WorkerRights/MeatpackersBOR_)

<sup>11</sup> Neb. Rev. Stat. Section 72-1631.