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3 **UNITED STATES DISTRICT COURT**
4 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
5

6 NATIONAL MEAT ASSOCIATION, a not-
7 for-profit corporation,

8 Plaintiff,

9 and

10 AMERICAN MEAT INSTITUTE, a not-for-
11 profit corporation,

12 Plaintiff-Intervenor,

13 v.

14 KAMALA D. HARRIS, in her official
15 capacity as Attorney General of California,
16 EDMUND G. BROWN JR., in his official
17 capacity as Governor of California, and the
18 STATE OF CALIFORNIA,

19 Defendants,

20 and

21 THE HUMANE SOCIETY OF THE UNITED
22 STATES, FARM SANCTUARY INC.,
23 HUMANE FARMING ASSOCIATION, and
24 ANIMAL LEGAL DEFENSE FUND,

25 Defendant-Intervenors.
26

CASE NO: 1:08-cv-01963-LJO-DLB

**ORDER OF FINAL JUDGMENT AND
PERMANENT INJUNCTION**

27 Based upon a careful review of parties' submissions and the entire record, **IT IS**

28 **ORDERED, ADJUDGED AND DECREED** that:

1. This Court has jurisdiction over the subject matter of this action and over each of the parties thereto. The Court retains jurisdiction to interpret and enforce this Final Judgment and Permanent Injunction.
2. This Final Judgment and Permanent Injunction fully resolves all claims in this action.

1 3. Based upon NMA’s Complaint, the Court’s Preliminary Injunction Opinion and
2 Order, the March 31, 2010 opinion of the Ninth Circuit Court of Appeals, the January 23, 2012
3 decision of the Supreme Court of the United States, and the Ninth Circuit Court of Appeals’ Order
4 on remand affirming the judgment of this Court on the preliminary injunction, the Court hereby
5 enters this Final Judgment and Permanent Injunction.

6 **I. FACTS AND APPLICABLE LEGAL PRINCIPLES**

7 **A. The Parties**

8 4. Plaintiff National Meat Association (NMA) is, because of a recent merger, now
9 known as the North American Meat Association (NAMA).¹ It is a voluntary membership-based
10 trade association organized and existing under the laws of the District of Columbia and having its
11 headquarters in Oakland, California. NAMA was founded in 1946 and represents the interests of
12 packers and processors, who slaughter livestock, including swine, and who market meats, including
13 pork and pork products, throughout the United States. NAMA’s members, including members
14 based in the Eastern District of California, package and process meat products that are sold in every
15 district of California, including the Eastern District of California.

16 5. Plaintiff-Intervenor American Meat Institute (AMI), formerly known as the
17 American Meat Packers Association, is a voluntary membership trade association organized and
18 existing under the laws of the State of Illinois and having its headquarters in Washington, D.C.
19 AMI’s members package and process meat products that are sold in every district in California,
20 including in the Eastern District of California. AMI was founded in 1906 and represents the
21 interests of packers and processors of beef, pork, lamb, and veal products and their suppliers
22 throughout North America. Together, AMI’s members produce approximately ninety-five percent
23 of beef, pork, lamb, and veal products in the United States.

24 6. Defendants Kamala D. Harris and Edmund G. Brown Jr. are the Attorney General
25 and Governor of the State of California, respectively, and are named in their official capacities only.

26 7. Defendant-Intervenor The Humane Society of the United States (HSUS) is a national
27

28 ¹ On July 1, 2012, the National Meat Association merged with the North American Meat Processors to
become the North American Meat Association, a District of Columbia Nonprofit Corporation created pursuant to the
District of Columbia Nonprofit Corporation Act.

1 nonprofit animal protection organization headquartered in Washington, D.C., with over 11 million
2 members and constituents, including over 1,450,000 members and constituents in California. The
3 HSUS alleges that it actively advocates against practices that harm farm animals, including those
4 raised for meat, eggs and milk, and strives to inform its members about the cruelty inflicted and
5 threats caused by such practices.

6 8. Defendant-Intervenor Farm Sanctuary is a nonprofit corporation organized
7 headquartered in Watkins Glen, New York, with over 250,000 members and supporters nationwide.
8 Farm Sanctuary is a national farm animal rescue and protection organization, and it alleges that it is
9 dedicated to ending the suffering of animals used in food. Farm Sanctuary alleges that it invests
10 considerable resources advocating for farm animal health and welfare, educating its members,
11 visitors, and the public about farm animal issues, and rescuing farm animals from cruelty. It alleges
12 that much of its advocacy work focuses on the issue of nonambulatory livestock.

13 9. Defendant-Intervenor Humane Farming Association (HFA) is a national nonprofit
14 organization dedicated to the protection of farm animals which, it alleges, devotes considerable
15 resources alleviating animal suffering and combating animal abuse within the livestock industry.
16 Headquartered in San Rafael, California, HFA has over 250,000 members nationwide. HFA alleges
17 that since 1985, it has conducted extensive cruelty investigations regarding downed animals at
18 stockyards, factory farms, and slaughterhouses. HFA also operates Suwanna Ranch, a 5,000 acre
19 farm animal rescue and rehabilitation center in Elk Creek, California.

20 10. Defendant-Intervenor Animal Legal Defense Fund (ALDF) is a nonprofit
21 corporation founded in 1979 to protect the lives and advance the interests of animals through the
22 legal system. ALDF's headquarters are located in Cotati, California. With approximately 100,000
23 members nationwide, and more than 9,000 members in California, ALDF includes lawyers, law
24 professors, law students, and other similarly interested individuals. ALDF alleges that it works
25 peacefully and within legal boundaries to stop animal abuse and encourage the protection of
26 animals. ALDF files lawsuits to enforce existing animal protection laws, provides free legal
27 assistance to prosecutors handling cruelty cases, works to strengthen state anti-cruelty statutes, and
28 provides public education through seminars, workshops, and other outreach efforts.

1 **B. California Penal Code § 599f**

2 11. In 2008, the California legislature amended a pre-existing statute governing the
3 treatment of nonambulatory animals and applied that statute to slaughterhouses regulated under the
4 FMIA.

5 12. Effective January 1, 2009, California Penal Code § 599f, as amended,
6 provides:²

7 599f. Nonambulatory animals; slaughter houses, stockyards, auctions, market
8 agencies, or dealers; transactions; processing; euthanasia; movement;
violations

- 9 (a) No slaughterhouse, stockyard, auction, market agency, or dealer shall buy,
10 sell, or receive a nonambulatory animal.
- 11 (b) No slaughterhouse shall process, butcher, or sell meat or products of
12 nonambulatory animals for human consumption.
- 13 (c) No slaughterhouse shall hold a nonambulatory animal without taking
14 immediate action to humanely euthanize the animal.
- 15 (d) No stockyard, auction, market agency, or dealer shall hold a nonambulatory
16 animal without taking immediate action to humanely euthanize the animal or
17 to provide immediate veterinary treatment.
- 18 (e) While in transit or on the premises of a stockyard, auction, market agency,
19 dealer, or slaughterhouse, a nonambulatory animal may not be dragged at any
20 time, or pushed with equipment at any time, but shall be moved with a sling
or on a stoneboat or other sled-like or wheeled conveyance.
- 21 (f) No person shall sell, consign, or ship any nonambulatory animal for the
purpose of delivering a nonambulatory animal to a slaughterhouse,
stockyard, auction, market agency, or dealer.
- 22 (g) No person shall accept a nonambulatory animal for transport or delivery to a
slaughterhouse, stockyard, auction, market agency, or dealer.

22 ² The pre-existing statute, California Penal Code § 599f, provided:

23 (a) No slaughterhouse that is not inspected by the United States Department of Agriculture, stockyard, or
24 auction shall buy, sell, or receive a nonambulatory animal.

25 (b) No slaughterhouse, stockyard, auction, market agency, or dealer shall hold a nonambulatory animal without
26 taking immediate action to humanely euthanize the animal or remove the animal from the premises.

27 (c) While in transit or on the premises of a stockyard, auction, market agency, dealer, or slaughterhouse, a
28 nonambulatory animal may not be dragged at any time, or pushed with equipment at any time, but shall be
moved with a sling or on a stoneboat or other sled-like or wheeled conveyance.

(d) A violation of this section is a misdemeanor.

(e) As used in this section, ‘nonambulatory’ means unable to stand and walk without assistance.

(f) As used in this section, ‘animal’ means live cattle, swine, sheep, or goats.

(g) As used in this section, ‘humanely euthanized’ means to kill by a mechanical, chemical, or electrical
method that rapidly and effectively renders the animal insensitive to pain.

- 1 (h) A violation of this section is subject to imprisonment in the county jail for a
2 period not to exceed one year, or by a fine of not more than twenty thousand
3 dollars (\$20,000), or by both that fine and imprisonment.
4 (i) As used in this section, “nonambulatory” means unable to stand and walk
5 without assistance.
6 (j) As used in this section, “animal” means live cattle, swine, sheep, or goats.
7 (k) As used in this section, “humanely euthanized” means to kill by a
8 mechanical, chemical, or electrical method that rapidly and effectively
9 renders the animal insensitive to pain.

10 **C. The Federal Meat Inspection Act and Its Preemptive Force**

11 13. The Federal Meat Inspection Act (FMIA), 21 U.S.C. § 601 *et seq.*, regulates the
12 inspection, handling, and slaughter of livestock for human consumption, and regulates a broad
13 range of activities at slaughterhouses to ensure both the safety of meat and the humane handling of
14 animals.

15 14. This includes requirements and regulations concerning nonambulatory animals,
16 including swine.

17 15. The FMIA contains an express preemption provision, the first sentence of which
18 reads:

19 Requirements within the scope of this [Act] with respect to premises, facilities and
20 operations of any establishment at which inspection is provided under . . . this [Act]
21 which are in addition to, or different than those made under this [Act] may not be
22 imposed by any State.

23 21 U.S.C. § 678.

24 16. With respect to California Penal Code § 599f, as amended, the Supreme Court of the
25 United States held:

26 The FMIA regulates slaughterhouses’ handling and treatment of nonambulatory pigs
27 from the moment of their delivery through the end of the meat production process.
28 California’s § 599f endeavors to regulate the same thing, at the same time, in the
same place—except by imposing different requirements. The FMIA expressly
preempts such a state law.

132 S. Ct. at 975

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1 **V. RELIEF**

2 Based upon the facts and applicable legal principles, **THE COURT HEREBY ORDERS**
3 **AND DECLARES** that:

4 1. The Federal Meat Inspection Act, 21 U.S.C. § 601 *et seq.*, expressly preempts
5 California Penal Code § 599f, as amended and effective January 1, 2009, with respect to federally-
6 inspected swine slaughterhouses.

7 2. Defendants and their agents, servants, employees, officers, representatives,
8 successors and assigns, and all persons, firms, and corporations acting in connection or participation
9 with Defendants or on their behalf, are hereby **PERMANENTLY ENJOINED AND**
10 **RESTRAINED** from enforcing California Penal Code § 599f, as amended and effective January 1,
11 2009, against swine slaughterhouses regulated by the Federal Meat Inspection Act, 21 U.S.C. § 601
12 *et seq.*

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14
15 IT IS SO ORDERED.

16 Dated: November 5, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE