

Rebuttal of Smithfield's Corporate Presentation to Community and Religious Groups

Company Claim #1: "The workers at Smithfield in Tar Heel don't want a union."

Why does Smithfield say the union can call for an election at any time?

The United Food and Commercial Workers Union (UFCW) began to work with the employees at the Smithfield Tar Heel plant shortly after the facility opened in 1992 to help them organize a union. There was an election in 1994 that resulted in numerous charges filed against Smithfield at the National Labor Relations Board (NLRB) for illegal surveillance, intimidation, threats, coercion and harassment of workers.

In 1997, workers once again attempted to join the UFCW and there was a second election at the plant. This time, the company pulled out all the stops. In a 433-page decision, an Administrative Law Judge ruled that Smithfield had violated dozens of laws in its attempts to prevent its workers from organizing. The Judge's decision contains some of the strongest language in recent labor history against a company:

- Smithfield managers conspired with the local Sheriff Department to physically intimidate and assault union supporters.
- Sheriff deputies--in riot gear and heavily armed--stationed themselves at the entrance to the plant on days that civil rights leader Reverend Jesse Jackson and other religious leaders handed out literature with workers.
- The company planned and instigated a "riot" following the vote count in 1997 that led to false arrests of union supporters.
- Smithfield held forced meetings to intimidate and threaten workers for supporting the union.
- Smithfield threatened Latino workers with an INS raid if they voted for the union. The company also threatened to close the plant.
- The Board found Smithfield guilty of illegally firing seven workers during the 1994 campaign and four more in 1997.
- Smithfield attorneys suborned perjury during the trial. The Judge also ruled that company witnesses "lied under oath" throughout the decision.

These findings were unchallenged by the full NLRB, and most recently by the US Federal Court of Appeals, DC Circuit (in May 2006):

"According to National Labor Relations Board findings unchallenged here, the company threatened to fire employees who voted for the Union, to freeze wages and shut the plant if the employees unionized, and to discipline employees who engaged in union activity. It also interrogated employees about their union support, confiscated union

materials, and videotaped and otherwise spied on its employees' union activities." (Case 05-1004, US Court of Appeals, DC Circuit, decided May 5, 2006).

Smithfield has said it may appeal these results to the Supreme Court. While Smithfield claims the union can have an election whenever it wants, the company has never complied with any ruling the court has made and continues to dispute the courts' findings.

Smithfield's actions in these two previous elections—and in more recent events as well—demonstrate that it would be impossible to hold a free and fair election at this plant, so that workers would not fear retaliation or intimidation.

There are other ways in which workers can choose to be represented by a union without having to resort to an election that is held on company premises, under the watch of managers and supervisors. We are telling Smithfield that we would like to work out a representation process that does not involve threats, intimidation or interference.

Company Claim #2: "We had wall-to-wall inspection with 10 OSHA reps for weeks. They found no violations."

What is Smithfield hiding?

North Carolina OSHA inspected the plant three times in 2005 and found multiple violations of safety and health laws. Smithfield Packing was fined \$20,175 in 2005 alone. This excludes violations that were found at the adjacent Smithfield Transportation Company and Family Medical Health Clinic.

Ammonia Spill

On 6/28/05 OSHA conducted an inspection after it received a report that 661 pounds ammonia had been spilled at the plant on June 15, 2005. No injuries were reported, but the kill floor was evacuated and employees arriving for work were not allowed in. While the cause of the spill was found to be related to the improper installation of a refrigeration unit, OSHA determined that it was Smithfield's responsibility to review the changes to the system that were being installed. Smithfield also failed to update training records and operating procedures related to the refrigeration unit. OSHA fined Smithfield \$2,275 (Inspection #308782754; closed 7/28/05)

Comprehensive Inspection Part 1: Potential exposure to Medical Risks

On March 2, 2005, OSHA conducted a comprehensive inspection of the Tar Heel plant and found numerous safety violations. The first set of penalties initially totaled \$2,763 and covered problems such as potential exposure of employees to

blood-borne pathogens and other potentially infectious materials; the lack of training on pathogen exposure; and the failure to provide information and training on the use of hazardous chemicals. It was also disclosed that maintenance procedures routinely exposed employees to the release of between 5 and 90 pounds of liquid ammonia on the plant roof. This penalty was ultimately reduced to \$1,300 (Inspection #308542513; closed 4/13/06)

Comprehensive Inspection Part 2: General Walk-Through

As part of the March 2, 2005 inspection, OSHA conducted a general walk-through of the plant and identified over 50 violations, the majority of which were categorized as "serious". These included lack of safety training, unguarded blades, missing guardrails, blocked exits, illegible signage, and improper safety procedures. The initial proposed penalty was \$20,751; however, the total was reduced to \$16,600 after Smithfield corrected some of the problems. (Inspection #308548866; closed 10/31/05).

Worker Fatality, November 2003

On November 20, 2003, a 25-year old employee climbed into a tank to clean it out and was quickly overcome with toxic fumes and killed by asphyxiation. His body was found shortly thereafter. OSHA conducted an investigation of the event and found that the young man had been improperly trained and supervised, and the tanker was not properly labeled as a dangerous confined space. Smithfield was fined \$4,323. (Inspection #07215731, closed 6/4/04). Smithfield also agreed to pay workers compensation benefits to the worker's daughter, who was 3 years old at the time of her father's death.

Company Claim #3: Smithfield is a leader in environmental compliance.

Smithfield Packing has a long history of dispute with the North Carolina Department of Environment and Natural Resources (NCDENR). In 1998 and 1999, NCDENR attempted to limit the level of waste that Smithfield could discharge, based on "concerns...about the compliance history of the parent company". After months of negotiation, the permit was finally issued.

The concerns in part stemmed from a 1997 lawsuit, in which Smithfield was fined \$12.6 million by the Environmental Protection Agency (EPA) for 7,000 violations of the U.S. Clean Water Act and National Pollutant Discharge Elimination System (NPDES) permitting process. The fine, one of the largest ever, was upheld with only a minor change by the 4th U.S. Circuit Court of Appeals in Richmond.

In North Carolina, after years of hog waste spills and unlawful discharges of animal waste, Smithfield reached an agreement with the State Attorney General in 2001 to pay \$65 million dollars to improve the environment and develop new technologies for processing and treating waste. Nevertheless, despite five years of research, none of Smithfield's 275 company-owned factory farms or any of its hundreds of contract farms has yet to implement any new waste management systems.

More recently, local concerns focus on the rapid depletion of the water table under the Tar Heel plant. Since the plant began operation in 1992, the company has pumped so much water out of the aquifer that "a cone of depression has formed beneath the plant." (Source: Fayetteville Observer, February 7, 2006). Smithfield was required to develop a plan for sustainable water resources and now plans to build a water treatment plant on the Cape Fear River—to be funded by the regional Water Authority.

Company Claim #4: Wages at the Tar Heel plant are equal to those in Smithfield's non-union plants.

Workers at Tar Heel earn \$8.10 to start and up to \$9 to \$10 an hour. Smithfield owns a comparable plant in Crete, Nebraska (Farmland Foods) where UFCW Local 271 has negotiated a start rate of \$11.20, with a raise to \$12.70 after 6 to 12 months. (This rate will increase to \$12.95 in 2007). Wages at the unionized Farmland plant in Denison, Iowa, are the same, and they are similar at the unionized Smithfield Foods' John Morrell plants in Iowa and South Dakota.

Company Claim #5: We take care of our injured workers.

According to OSHA logs kept by the company, in 2003, 305 workers at the Tar Heel plant reported injuries. In 2004, 347 injuries were reported. In 2005 there were 421 reported injuries. In the first 4 months of 2006, 210 injuries were reported. If this rate holds steady, over 600 workers will have reported being injured while working at the Smithfield Tar Heel plant this year.

However, interviews with workers and anecdotal evidence have revealed that **MANY WORKERS DO NOT REPORT THEIR INJURIES**, or are **FIRED** if they do. At times employees are dissuaded or prohibited from reporting by their supervisors. In other instances, employees fear that they will be terminated for being injured, or they will lose their position on the line and effectively be demoted. In some cases, workers are never made aware of the fact that they have a right to seek medical care for their injuries. Finally, workers report on a regular basis that they have reported injuries but **HAVE BEEN DENIED WORKERS' COMPENSATION**.

While it is not known how many on the job injuries remain unreported in the Smithfield plant or in the pork industry as a whole, some recent studies have shed light on this problem in North Carolina's poultry industry. A direct correlation cannot be drawn between poultry and pork; however, these numbers indicate that underreporting of injuries is a widespread problem. A recent study of the poultry industry found that "Twenty-eight percent of workers reported at least one work-related injury or illness in the past 12 months, and nearly 60% reported symptoms of common conditions found among workers in the poultry processing industry, including dermatological, respiratory or musculoskeletal injuries that were defined a priori as job-related." This was three times higher than what was reported on company OSHA logs at these plants. (Source: "Occupational Illnesses and Injuries among Latino Poultry Workers in Western North Carolina", Sara A. Quandt, Ph.D. et.al., Wake Forest University School of Medicine).