

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	FMIA Docket No. 16-0030
)	PPIA Docket No. 16-0030
Westminster Meats, LLC,)	
)	
Respondent)	Remand Order

PROCEDURAL HISTORY

On December 18, 2015, Administrative Law Judge Jill S. Clifton issued *Westminster Meats, LLC* (Consent Decision), 74 Agric. Dec. 437, 438 (U.S.D.A. 2015). Paragraph thirty-six of the Consent Decision provides, as follows:

Enforcement Provisions

36. The Administrator, FSIS, may summarily withdraw the grant of Federal inspection from [Westminster] upon a determination by the Director, ELD, or his or her designee, that one or more conditions set forth in paragraphs 1 through 35 of this Order have been violated. It is acknowledged that [Westminster] retains the rights to request an expedited hearing pursuant to the rules of practice concerning any violation alleged as the basis for a summary withdrawal of Federal inspection services. . . .

On August 18, 2017, the Director, Enforcement and Litigation Division, Office of Investigation, Enforcement and Audit, Food Safety and Inspection Service, United States Department of Agriculture [FSIS], sent Westminster Meats, LLC [Westminster], a Notice of Summary Withdrawal stating that FSIS is effectuating action under paragraph thirty-six of *Westminster Meats, LLC* (Consent Decision), 74 Agric. Dec. 437, 438 (U.S.D.A. 2015), to summarily withdraw the grant of Federal inspection service from Westminster. FSIS' August 18,

2017 Notice of Summary Withdrawal describes Westminster's rights with respect to the summary withdrawal, as follows:

Your Rights in this Matter

Under paragraph 36 of the Order, Westminster may request an expedited hearing before a USDA administrative law judge to contest the summary withdrawal action. Westminster may request a hearing by filing a request within 30 days from the effect of this Notice with the USDA Hearing Clerk for a hearing under the USDA rules of practice (7 C.F.R. Part 1, Subpart H). . . . Failure by Westminster to do so may constitute a waiver of any right to an administrative hearing.

On August 18, 2017, Westminster filed with the Hearing Clerk, Office of Administrative Law Judges, United States Department of Agriculture [Hearing Clerk], a request for a hearing before a "USDA judge," and, on August 22, 2017, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for consideration of Westminster's request for a hearing.

DISCUSSION

Westminster's August 18, 2017 hearing request does not constitute an appeal of *Westminster Meats, LLC* (Consent Decision), 74 Agric. Dec. 437, 438 (U.S.D.A. 2015). Instead, I find Westminster's request is for a hearing regarding the basis for FSIS' August 18, 2017 summary withdrawal of the grant of Federal inspection service from Westminster. Therefore, I conclude I do not have jurisdiction over Westminster's August 18, 2017 request for a hearing and jurisdiction over this proceeding currently lies with the Office of Administrative Law Judges, United States Department of Agriculture.

For the foregoing reasons, the following Order is issued.

ORDER

This proceeding is remanded to Chief Administrative Law Judge Bobbie J. McCartney for assignment to an administrative law judge in the Office of Administrative Law Judges, United

States Department of Agriculture, for further proceedings in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151).

Done at Washington, DC

August 24, 2017



William G. Jenson
Judicial Officer