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Postville plant has record of violations, reprimands

JOSH NELSON, Courier Staff Writer

POSTVILLE -- Agriprocessors has been a boon to the regional economy since it opened in 1987. It's also been a lightning rod for controversy.

The company has a long history of citations and fines from state and local officials for violation labor, food safety and environmental laws.

Those problems have been compounded after 389 people -- more than a third of Agriprocessors' work force -- were administratively arrested Monday in a raid by U.S. Immigration and Customs Enforcement agents. More than 300 employees are facing various federal criminal charges, including aggravated identity theft and fraudulent use of a Social Security number.

Company officials admitted in federal court last year that they knew some employees at distribution centers in Brooklyn, N.Y., were using false Social Security numbers, according to court documents.

The admission came during a labor dispute before the National Labor Relations Board between employees, the United Food and Commercial Workers union and Agriprocessors.

According to board documents, 20 employees cast ballots in an election a year prior -- 15 voted in favor of unionizing and five opposed. After the election, Agriprocessors checked the Social Security numbers of those involved with the election and discovered a "substantial" number were using false documents.

Agriprocessors argued that the illegal immigrants don't count the same as legal workers, and their votes shouldn't be counted.

In 2007, the U.S. Circuit Court of Appeals for the District of Columbia agreed with the labor board.

"While undocumented aliens may face penalties for violating immigration laws, they receive the same wages and benefits as legal workers, face the same working conditions, answer to the same supervisors and possess the same skills and duties," the court wrote.

The court said that the National Labor Relations Act extended collective bargaining protections to workers regardless of the legal status.

Company officials contended the votes should be thrown out because the definition of an employee was altered in 1986 when Congress passed the Immigration Reform and Control Act in 1986, which punishes employers who knowingly hire undocumented workers.

The courts disagreed, stating that the immigration act doesn't contradict the labor act.

However, Circuit Judge Brett Kavanaugh said in a dissenting opinion that the undocumented immigrants shouldn't be considered employees because the immigration reform act essentially made it illegal for employers to hire undocumented workers.

## Problem history

Besides immigration, there have been other issues at the plant.

In April 2000, up to 40,000 gallons of turkey blood spilled into a stream near Postville. The spill was blamed on a malfunctioning pump.

Between 2000 and 2006, the city of Postville and Agriprocessors faced several more legal challenges from state and federal regulators and environmental groups to strengthen waste water treatment regulations. The city eventually opened a new \$11 million treatment plant in September 2006.

In February 2006, the U.S. Department of Labor fined Agriprocessors \$4,500 for workplace safety violations. The fines were reduced to a total of \$1,250. A month later, the company was cited for another safety violation, but no fine was issued.

In 2004, People for the Ethical Treatment of Animals, an animal rights organization, released a video that showed what it called inhumane slaughtering practices that violated the tenets of glatt kosher butchering. The resultant firestorm led to three U.S. Department of Agriculture inspectors being reprimanded for failing to report food safety hazards, accepting gifts from plant workers and spending time playing computer games and sleeping on the job.

The videos prompted an investigation by the USDA and caused Agriprocessors to change two of its regulations to ensure the processes were more humane.

The agriculture department issued a "letter of warning" in September 2006 when the plant failed to meet minimum requirements for sanitary conditions.

Between January 2006 and Jan. 24, 2007, the USDA cited the plant 250 times for safety and sanitary violations, according to records. One of those was a "letter of warning" after rodents were seen in offices, among other unsanitary conditions.

Some of those problems resulted in a recall of 2,700 pounds of frankfurters because of potential underprocessing.

In March 2007, 23 employees -- mostly Latinos -- filed a federal lawsuit against Agriprocessors alleging the company has not paid them overtime for the time it takes them to prepare for and clean up after shifts over the past two years. The preparation could take up to 35 minutes a day, according to the suit.

Two months later, around 200 workers reportedly walked off the job at Agriprocessors because of disagreements on working and wage conditions. The walk-off was sparked when company supervisors asked an unknown number of employees about mismatched Social Security numbers.

Iowa Division of Labor officials proposed \$182,000 in fines in March after Agriprocessors allegedly violated state workplace safety and health regulations. The case has not been resolved yet.

Iowa Labor Commissioner David Neil of La Porte City also confirmed a potential minimum wage and child labor investigation against Agriprocessors. Neil, a former longtime labor leader with the United Auto Workers in Des Moines and Waterloo, did not comment on the scope of the probe.