

Congress of the United States
Washington, DC 20515

February 1, 2021

Mr. Andre Nogueira
President and Chief Executive Officer
JBS USA Holdings, Inc.
1770 Promontory Circle
Greeley, CO 80634

Dear Mr. Nogueira:

The Select Subcommittee on the Coronavirus Crisis is investigating the impact of the coronavirus pandemic on workers in the meatpacking industry. Public reports indicate that meatpacking companies, including JBS, have refused to take basic precautions to protect their workers, many of whom earn extremely low wages and lack adequate paid leave, and have shown a callous disregard for workers' health. These actions appear to have resulted in thousands of meatpacking workers getting infected with the virus and hundreds dying. Outbreaks at meatpacking plants have also spread to surrounding communities, killing many more Americans. It is imperative that shortcomings in worker protection are identified and rectified to save lives in the months before coronavirus vaccinations are available for all Americans.

According to media reports, nearly 54,000 workers at 569 meatpacking plants in the United States have tested positive for the coronavirus, and at least 270 have died.¹ The Centers for Disease Control and Prevention (CDC) has identified meatpacking plants as a source for "rapid transmission" of the coronavirus. In August 2020, CDC issued a report showing that a single case of the coronavirus spread to 929 employees of a South Dakota meatpacking facility in just five weeks. At least two employees died. CDC explained that its findings "highlight the potential for rapid transmission of SARS-CoV-2 among employees in meat processing facilities."²

Meatpacking plants have also spread the coronavirus into nearby communities. According to a study by the National Academy of Sciences, meatpacking plants were associated with between 236,000 to 310,000 coronavirus cases and 4,300 to 5,200 coronavirus deaths as of July 21, 2020. These findings suggest these plants "may act as transmission vectors into the

¹ Food and Environment Reporting Network, *Mapping Covid-19 Outbreaks in the Food System* (online at <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>) (accessed Jan. 21, 2021); *More Than 200 Meat Plant Workers in The U.S. Have Died of Covid-19. Federal Regulators Just Issued Two Modest Fines*, Washington Post (Sept. 13, 2020) (online at www.washingtonpost.com/national/osha-covid-meat-plant-fines/2020/09/13/1dca3e14-f395-11ea-bc45-e5d48ab44b9f_story.html).

² Centers for Disease Control and Prevention, *COVID-19 Outbreak Among Employees at a Meat Processing Facility—South Dakota, March-April 2020* (Aug. 7, 2020) (online at www.cdc.gov/mmwr/volumes/69/wr/mm6931a2.htm?s_cid=mm6931a2_w).

surrounding population and accelerate the spread of the virus beyond what would be predicted solely by population risk characteristics.” When large meatpacking plants closed down temporarily, the rates of coronavirus spread slowed in those counties, strongly suggesting that the plants were contributing to community transmission. This study also found that meatpacking plants that received permission from the federal government “to increase their production-line speeds saw more county-wide cases;”³ a conclusion reinforced by a *Washington Post* analysis calculating that poultry plants with line-speed waivers were 10 times as likely to have coronavirus cases compared to plants without waivers.⁴

According to media reports, 3,084 JBS employees have been infected with the coronavirus, and 18 have died.⁵ Six JBS plants had outbreaks of more than 200 cases, including facilities in Nebraska, Texas, Colorado, Wisconsin, Utah and Minnesota.⁶ One plant had an outbreak of 791 cases.⁷ At JBS’s Greeley, Colorado plant, the Occupational Safety and Health Administration (OSHA) received complaints in March 2020, before conducting inspections in April⁸ and issuing a “serious” citation in September. OSHA determined that your company “fail[ed] to protect employees from exposure to the coronavirus” and “fail[ed] to provide a workplace free from recognized hazards that can cause death or serious harm.”⁹

Former employees at the Greeley, Colorado plant alleged that JBS—whose net profits soared 778% to \$574.9 million in the third quarter of 2020¹⁰—“provided screening equipment that did not function properly, forced employees to pay for coronavirus tests and encouraged

³ Proceedings of the National Academy of Sciences, *Livestock Plants and COVID-19 Transmission* (Nov. 19, 2020) (online at www.pnas.org/content/early/2020/11/25/2010115117).

⁴ *The Trump Administration Approved Faster Line Speeds at Chicken Plants. Those Facilities are More Likely to Have Covid-19 Cases.*, *Washington Post* (Jan. 4, 2021) (online at www.washingtonpost.com/politics/trump-chicken-covid-coronavirus-biden/2021/01/03/ea8902b0-3a39-11eb-98c4-25dc9f4987e8_story.html).

⁵ Food and Environment Reporting Network, *Mapping Covid-19 Outbreaks in the Food System* (online at <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>) (accessed Jan. 22, 2021).

⁶ *Covid in the U.S.: Latest Map and Case Count*, *New York Times* (online at www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html#hotspots) (accessed Jan. 22, 2021).

⁷ Food and Environment Reporting Network, *Mapping Covid-19 Outbreaks in the Food System* (online at <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>) (accessed Jan. 22, 2021).

⁸ *OSHA Criticized for Lax Regulation of Meatpacking in Pandemic*, *New York Times* (Oct. 22, 2020) (online at www.nytimes.com/2020/10/22/business/economy/osha-coronavirus-meat.html).

⁹ Occupational Safety and Health Administration, *Press Release: U.D. Department of Labor Cites JBS Foods Inc. for Failing to Protect Employees from Exposure to the Coronavirus* (Sept. 11, 2020) (online at www.dol.gov/newsroom/releases/osha/osha20200911-1); Occupational Safety and Health Administration, *Citation and Notification of Penalty: Inspection Number 1475131* (Sept. 11, 2020) (online at www.warren.senate.gov/imo/media/doc/jbs-osha-citations.pdf).

¹⁰ JBS SA, *Earnings Release Third Quarter* (Nov. 11, 2020) (online at <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/9077303c-b25f-6724-8ab5-b839ac5b6eb2?origin=1>); *JBS 3Q Profit Soars 778% to BRL3.1 Billion*, *Dow Jones* (Nov. 12, 2020) (online at www.morningstar.com/news/dow-jones/202011126698/jbs-3q-profit-soars-778-to-brl31-billion).

noticeably sick employees to continue working.”¹¹ Employees also reportedly complained to their managers that they were working near each other without masks before the outbreak occurred, but management encouraged employees to continue working despite the unsafe conditions.¹² In November 2020, two months after receiving OSHA’s citation, JBS experienced another coronavirus outbreak at the same plant.¹³

For all these reasons, the Select Subcommittee requests that you provide the Subcommittee the following documents and information by February 15, 2021:

1. All documents relating to complaints or concerns submitted by your employees regarding the coronavirus.
2. A description of how your company tracks complaints and concerns from employees related the coronavirus, including:
 - a. The process for tracking and responding to such complaints;
 - b. The number of such complaints received at each U.S. facility or plant;
 - c. A detailed description of how these complaints were resolved; and
 - d. The number of complaints that remain open or unresolved.
3. All documents related to coronavirus-related inspections by federal or state officials at your company’s U.S. facilities and plants.
4. A list of coronavirus-related inspections by federal or state officials at your company’s U.S. facilities and plants, including the name of the entity that conducted each inspection, the date, the facility name and location, any inspection results or findings, any citations or fines issues, and any corrective action taken.
5. The number of employees at your company, including full-time, temporary, and contract employees, who have contracted the coronavirus, broken down by facility, and identifying all data sources, including JBS’s testing, testing by health departments, and other sources.
6. The number of employees at your company, including full-time, temporary, and contract employees, who have died from the coronavirus, broken down by facility, and identifying all data sources.

¹¹ *Colorado Plant Accused of Negligence After Covid-19 Outbreak*, Associated Press (Oct. 7, 2020) (online at <https://apnews.com/article/virus-outbreak-greeley-colorado-cb37309206c406eb04e29834cd2a2c01>).

¹² *He Fled Congo to Work in a U.S. Meat Plant. Then He — and Hundreds of his Co-workers — Got the Coronavirus*, Washington Post (Aug. 6, 2020) (online at www.washingtonpost.com/national/he-fled-the-congo-to-work-in-a-us-meat-plant-then-he--and-hundreds-of-his-co-workers--got-the-coronavirus/2020/08/06/11e7e13e-c526-11ea-8ffe-372be8d82298_story.html).

¹³ *Meatpacking Giant JBS Battles New Coronavirus Outbreaks at Greeley Plant and Corporate Offices*, Colorado Public Radio (Nov. 25, 2020) (online at www.cpr.org/2020/11/25/meatpacking-giant-jbs-battles-new-coronavirus-outbreaks-at-greeley-plant-and-corporate-offices/).

7. All documents and communications regarding your company’s employee benefits for work absences related to the coronavirus, such as short-term disability.
8. The following information regarding short-term disability payments related to the coronavirus:
 - a. The number of employees who have received such payments, broken down by facility;
 - b. The number of employees who requested such payments but were denied;
 - c. The number of employees who took additional time away from work due to illness related to the coronavirus following short-term disability payments; and
 - d. The number of employees who have left your company due to illness related to the coronavirus.
9. A list of all instances in which your company closed a facility for reasons related to the coronavirus, including the location of the facility, the dates that it was closed, the reason for closing, and reason for reopening.
10. All documents and communications regarding implementation of coronavirus-related safety measures recommended in *Meat and Poultry Processing Workers and Employers: Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA)*,¹⁴ including but not limited to:
 - a. Modification of “the alignment of workstations, including a long processing lines;”
 - b. Ensuring “adequate ventilation in work areas;” and
 - c. “Provid[ing] PPE.”
11. All documents and communications regarding coronavirus outbreaks, infections, or deaths among workers at your company’s facilities or in surrounding communities.

The House of Representatives established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “preparedness for and response to the coronavirus crisis.”¹⁵

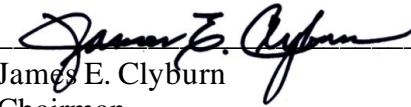
¹⁴ Centers for Disease Control and Prevention, *Meat and Poultry Processing Workers and Employers: Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA)* (Apr. 26, 2020) (updated Nov. 12, 2020) (online at www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html).

¹⁵ H.Res. 935, 116th Cong. (2020); H.Res. 8, sec. 4(f), 117th Cong. (2021).

Mr. Andre Nogueira
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An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman

Select Subcommittee on the Coronavirus Crisis

Enclosure

cc: The Honorable Steve Scalise, Ranking Member
Select Subcommittee on the Coronavirus Crisis

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.