

DISPOSITION: On or about 7-14-65. Consent—claimed by the Early & Daniels Co., Inc., Cincinnati, Ohio, and converted to animal feed.

30226. Wheat. (F.D.C. No. 51462. S. No. 10-129 B.)

QUANTITY: 118,200 lbs. at Spokane, Wash.

SHIPPED: 7-16-65, from Meriweather, Mont., by Montana Wheat Growers, Inc.

LIBELED: 7-22-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-4-65. Consent—claimed by Atwood Larson Co., Portland, Oreg., and denatured for use as animal feed.

30227. Wheat. (F.D.C. No. 51459. S. No. 10-127 B.)

QUANTITY: 111,030 lbs. at Spokane, Wash.

SHIPPED: 7-7-65, from Ashley, N. Dak., by Farmers Feed Co.

LIBELED: 7-19-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-65. Consent—claimed by Bunge Corp., New York, N.Y., and denatured for use as animal feed.

30228. Wheat. (F.D.C. No. 51468. S. No. 10-135 B.)

QUANTITY: 110,400 lbs. at Spokane, Wash.

SHIPPED: 7-21-65, from Tuttle, N. Dak., by Tuttle Farmers Elevator.

LIBELED: 8-3-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-12-65. Consent—claimed by Bunge Corp., New York, N.Y., and denatured for use as animal feed.

30229. Oats. (Inj. No. 503.)

COMPLAINT FOR INJUNCTION FILED: 1-26-65, Dist. S. Dak., against Farmers Cooperative Elevator Co., a corporation, Revillo, S. Dak., Henry Hennings, president, and Ellsworth C. Johnson, manager.

CHARGE: The complaint alleged that the defendants were engaged in operating at Revillo, S. Dak., a grain storage facility which included 3 crib-type upright structures, 20 butler-type steel bins, and a quonset-type flat-storage building constructed of corrugated metal sheeting for the storage and distribution of oats for human consumption; and had been and were then introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, such food which was adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged further that the food had been and was then being held at the defendants' grain storage facility at Revillo, S. Dak., under insanitary conditions whereby it might have been rendered injurious to health as a result of the careless use of a rodenticide and whereby it might have become contaminated with filth, and that such food consisted in part of a filthy substance by reason of the presence of live and dead mice, rodent excreta, and bird droppings in the food, thereby rendering it adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged also that the insanitary conditions of the defendants' grain storage facility at Revillo, S. Dak., resulted from and consisted of the

presence in the quonset-type flat-storage building constructed of corrugated metal sheeting of the following: 3 open, unprotected, unsecured, glass ashtrays containing a thallium sulfate liquid rodenticide resting on small squares of cardboard at the surface of the oats near the west end of the building, 1 open, unprotected, unsecured, glass ashtray containing a thallium sulfate liquid rodenticide resting on a small square of cardboard at the surface of the oats near the northeast corner of the building, a dead mouse at the surface of the oats near the northeast corner of the building, a live mouse observed inside the door of the building, numerous rodent trails on the surface of the oats, approximately 200 rodent pellets on a ledge directly over the oats at the building's west end, approximately 50 mouse pellets per quart of surface oats near the center of the building's west end, approximately 50 rodent pellets per quart of surface oats approximately 6 feet from the building's southwest corner, approximately 5 rat pellets and approximately 10 mouse pellets per quart of the surface oats in the building's southwest corner, bird droppings in the oats in an area near the building's entrance and bird droppings on the interior beams of the building's east wall directly over the building's east doors.

DISPOSITION: On 1-26-65, a temporary restraining order was filed, and on 2-5-65, a consent decree of preliminary injunction was filed.

The decree enjoined *pendente lite* the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, oats and any similar article of food which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance, and 402(a)(4) in that it had been held under insanitary conditions whereby it might have become contaminated with filth, or whereby it might have been rendered injurious to health.

The decree further enjoined *pendente lite* the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, oats and any similar article of food held at defendants' quonset-type flat-storage building constructed of corrugated metal sheeting, at Revillo, S. Dak., unless and until:

(a) the building was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of oats for human consumption and any similar article of food, namely, unless and until all rodents, rodent filth, and bird filth were removed from the building; all rodent infestation in and about the building was eliminated; the means of ingress and egress of the building by rodents were closed; all containers for the dispensing of liquid rodenticide and any other bait stations used in the building for the dispensing of any rodenticide were firmly attached to the building or otherwise secured against being overturned; all containers for the dispensing of liquid rodenticide and other bait stations used in the building for the dispensing of any rodenticide were constructed so as to provide for the adequate and secure containment, by blotting, by a leak-proof receptacle or by other means, of any rodenticide which might be spilled, and to provide that no rodenticide should come in contact with or be mingled with oats or any similar article of food; and any similar insanitary conditions which might result in

oats and any similar article of food being contaminated with rodenticide filth while held at the building were eliminated;

(b) all of the thallium sulfate rodenticide was removed from all of the defendants' food storage structures and the use of any thallium sulfate rodenticide was permanently discontinued in all such food storage structures; or in the alternative, (i) all personnel having access to such structures were made fully aware that a thallium sulfate rodenticide was being used and were fully informed of its highly toxic nature and of the necessity for protecting stored foods from contamination by it, (ii) all thallium sulfate liquid rodenticide was colored with 0.5% nigrosine black dye, (iii) responsibility for control of thallium sulfate rodenticide in use in such food storage structures was vested in one person of established reliability, and this person was fully informed as to the acceptable procedures for use of thallium sulfate rodenticide and as to the potential hazards of careless use, and (iv) records were maintained which showed the location and amounts of thallium sulfate rodenticide used; and

(c) all of the oats which were on hand at the building at the time the building was cleaned, renovated, and rendered suitable for the storage of food for human consumption were destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare.

On 5-17-65, after an inspection of the subject premises by the representatives of the Food and Drug Administration, Department of Health, Education, and Welfare, showed satisfactory sanitary conditions existed at the elevator, the injunction was dissolved and the case dismissed pursuant to stipulation.

30230. Oats. (F.D.C. No. 50247. S. No. 57-132 A.)

QUANTITY: 100,000 lbs. at Sioux City, Iowa.

SHIPPED: 5-29-64, from Viborg, S. Dak., by Viborg Cooperative Elevator Association.

LIBELED: 7-2-64, N. Dist. Iowa.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for mercurial compounds on oats had been prescribed by regulations.

DISPOSITION: 11-2-64. Consent—claimed by Viborg Cooperative Elevator Association and denatured for use as seed.

30231. Oats. (F.D.C. No. 51470. S. No. 107-622 B.)

QUANTITY: 73,600 lbs. at Minneapolis, Minn.

SHIPPED: 7-19-65, from Adrian, N. Dak., by Adrian Equity Elevator Co.

LIBELED: 8-6-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance and no exemption from the requirement of a tolerance for such pesticide chemical on oats had been prescribed by regulations.

DISPOSITION: 8-19-65. Consent—destruction.