

foot on the surface of the wheat along the building's south wall and as many as 100 pellets per linear foot on some of the beams above this area; rodent trails and excreta pellets on the surface of the wheat and 2 rodent burrows near the building's southwest corner; rodent tracks, rodent trails, and between 10 to 20 rodent pellets per square foot, along the building's northwest corner; and a 1 gallon fountain type container of Pivalyn, a liquid rodenticide, which fountain rested on a 1-foot length of board placed directly on the surface of the wheat along the east wall near the building's north end.

DISPOSITION: On 3-7-62, a temporary restraining order was entered enjoining the defendants against the acts complained of. On 3-16-62, a consent decree of preliminary injunction was filed which provided as follows:

That the defendants be enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption 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 within the meaning of 402(a) (4) in that it had been held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health as a result of the careless use of rodenticide.

That the defendants be enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food held at defendants' flat-storage building constructed of metal sheeting upon a concrete slab, at Redfield, S. Dak., unless and until:

(a) the building was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, to wit, unless and until all rodents and rodent 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 fountains of liquid rodenticide and any other bait station used in the building for the dispensing of any rodenticide were firmly attached to the building or otherwise secured against being overturned; all fountains 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 shall come in contact with or be mingled with wheat for human consumption or any similar article of food; and any similar insanitary conditions which may result in wheat for human consumption and any similar article of food being contaminated with filth and rodenticide while held at the building were eliminated; and

(b) all of the wheat which was on hand at the building at the time the building was cleaned, renovated, and rendered suitable for the storage of food for human consumption was 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.

On 10-16-62, it appearing that the defendants were no longer in violation, an order was entered by consent dismissing the preliminary injunction.

28617. Wheat. (F.D.C. No. 47820. S. No. 70-795 T.)

QUANTITY: 120,000 lbs., at Minneapolis, Minn.

SHIPPED: 7-20-62, from Outlook, Mont., by Charles Grant.

LIBELED: 8-10-62, Dist. Minn.

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

DISPOSITION: 8-21-62. Consent—claimed by Charles Grant, Daleville, Mont., and denatured.

28618. Wheat. (F.D.C. No. 47977. S. Nos. 4-741 T, 5-332 T.)

QUANTITY: 3,000 bushels, at Driver, Va.

SHIPPED: 5-23-62, from Galveston, Tex.

RESULTS OF INVESTIGATION: Investigation showed that the wheat was damaged by sea water while enroute from Texas to Virginia.

LIBELED: 8-20-62, E. Dist. Va.

CHARGE: 402(a) (3)—contained a decomposed substance while in interstate commerce.

DISPOSITION: 9-20-62. Default—destruction.

28619. Wheat. (F.D.C. No. 48303. S. No. 34-061 V.)

QUANTITY: 80,000 lbs. at Glenwood, Minn.

SHIPPED: 8-30-62, from Braddock, N. Dak., by Uhlich Elevator Co.

LIBELED: 10-5-62, Dist. Minn.

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

DISPOSITION: 10-16-62. Consent—claimed by Freda Uhlich, t/a Uhlich Elevator Co. Segregated and reconditioned; 3,570 lbs. destroyed.

28620. Wheat bran. (F.D.C. No. 47533. S. No. 64-865 T.)

QUANTITY: 53 100-lb. bags at Atascadero, Calif.

SHIPPED: 2-23-61 and 6-8-61, from Wichita, Kans., by M. Bruenger & Co., Inc.

LABEL IN PART: (Bag) "100 Lbs. Net Wheat Bran Manufactured by The Kansas Milling Company, Wichita, Kansas."

LIBELED: 6-6-62, S. Dist. Calif.

CHARGE: 402(a) (2) (C)—when shipped, the article contained DDT, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 6-29-62. Default—destruction.

28621. Breeding. (F.D.C. No. 47973. S. No. 64-559 T.)

QUANTITY: 5 100-lb. drums at Savannah, Ga.

SHIPPED: 7-11-62, from St. Louis, Mo.

LIBELED: 8-13-62, S. Dist. Ga.