

28912. Wheat. (Inj. No. 369.)

COMPLAINT FOR INJUNCTION FILED: 2-3-60, W. Dist. Mich., against Ivan Whan, t/a Farmers Elevator Co., Pewamo, Mich.

CHARGE: The complaint alleged that the defendant was engaged in operating at Pewamo, Mich., a grain elevator for the storage and distribution of wheat and other grains for human consumption, and was shipping in violation of the law such foods which were held at that elevator under insanitary conditions whereby they may have become contaminated with filth thereby rendering them adulterated within the meaning of 402(a)(4).

The complaint alleged further that the insanitary conditions in the defendant's grain elevator at Pewamo, Mich., resulted from and consisted of the storage of such foods in wooden bins containing openings that permitted the entry of rodents and insects; the storage of the foods in concrete stave silos containing openings that permitted the entry of rodents, insects, and birds; the presence on the surface of wheat in the wooden bins of rodent excreta pellets, rodent tunneling, rodent tracks, and live mice; the presence on the surface of the wheat in the silos of rodent excreta, rodent tunnels, bird excreta, pigeon eggs, feathers, nesting material, and live nesting pigeons; live insect infestation in the foods stored in the elevator; openings in the foundations of the elevator permitting the entry of rodents; rodent runways, and rodent-gnawed holes in runways in the wooden bin walls; rodent excreta pellets and tracks in the alleyway between the bins; open, unscreened and broken windows; rodent tracks and insect trails in the headhouse and around the seed cleaner on the first floor of the elevator; rodent and bird tracks on the wooden bin walls and on planks over the bins; openings on the conveying equipment allowing access by rodents; and accumulations of dust, grain, and other nondescript items throughout the elevator affording harborage to rodents.

The complaint alleged also that the defendant was well aware that his activities were in violation of the law; that inspections of the defendant's elevator at Pewamo, Mich., were made on 12-4 and 5-58, 4-7 and 8-59, and 10-1 and 2-59, by inspectors of the Food and Drug Administration, and at each of those inspections the insanitary conditions of the elevator were called to the defendant's attention; and that despite the warnings conveyed to the defendant by such inspections, the defendant failed to correct the insanitary conditions at the elevator and continued to ship into interstate commerce, wheat and other grains for human consumption which were adulterated as specified above.

DISPOSITION: On 3-8-60, a temporary restraining order was filed, and on 8-19-60, a consent decree of preliminary injunction was filed.

The decree enjoined the defendant from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat and other grains for human consumption and any similar articles of food which were adulterated within the meaning of 402(a)(4) in that they had been held under insanitary conditions whereby they may have become contaminated with filth.

The decree further enjoined the defendant from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat and other grains for human consumption and any similar articles of food held at defendant's grain elevator at Pewamo, Mich., unless and until:

(a) the elevator was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat and other grains for human consumption, and any similar articles of food, namely, unless and until all rodent, insect, and bird filth was removed from the elevator and the equipment used in storing such food was cleaned; all rodent, insect, and bird infestation in and about the elevator was eliminated; the means of ingress and egress of the elevator and the storage bins thereof by rodents, insects and birds were closed; the windows were screened and the broken windows were repaired; and any similar insanitary conditions which might result in the contamination with filth of wheat and other grains for human consumption or any similar articles of food, while held at the elevator were eliminated;

(b) all of the wheat and other grains for human consumption and any similar articles of food which were on hand at the elevator at the time the elevator 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, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the law.

On 9-24-62, after an inspection of the subject premises by the representatives of the Food and Drug Administration of the 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.

28913. Wheat. (F.D.C. No. 44447. S. No. 30-122 R.)

QUANTITY: 105,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-21-60, from Zeeland, N. Dak., by E. M. Levi Elevators, Inc.

LIBELED: 4-28-60, Dist. Minn.

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

DISPOSITION: 5-2-60. Consent—claimed by E. M. Levi Elevators, Inc., and denatured for use as animal feed.

28914. Wheat. (F.D.C. No. 44466. S. No. 12-404 R.)

QUANTITY: 300 bushels, at Glendale, Mich.

SHIPPED: On or about 5-3-60, from Chicago, Ill. (This was a return shipment.)

LIBELED: 5-23-60, W. Dist. Mich.

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

DISPOSITION: 7-12-60. Consent—destruction.

28915. Wheat. (F.D.C. No. 45804. S. No. 48-115 R.)

QUANTITY: 126,200 lbs. at Ottawa Lake, Mich.

SHIPPED: 5-9-61, from Hemlock, Mich., by Hemlock Farmer's Cooperative, to Toledo, Ohio, and on 5-15-61, reshipped to Ottawa Lake, Mich.

LIBELED: 5-25-61, E. Dist. Mich.

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

DISPOSITION: 6-19-61. Consent—claimed by Michigan Elevator Exchange, Lansing, Mich., and reconditioned; 2,180 lbs. denatured.