

MISCELLANEOUS FRUIT PRODUCT

30053. Strawberry puree. (F.D.C. No. 50252. S. No. 68-189 A.)

QUANTITY: 138 cases, each containing 6 3-qt. cans, at Fargo, N. Dak.

SHIPPED: 6-2-64, from Humboldt, Tenn., by J. Hungerford Smith Co.

LABEL IN PART: (Case) "J. Hungerford Smith's * * * Humboldt—Strawberry Puree Sweetened * * * Rochester, N.Y. Humboldt, Tenn. Modesto, Calif." and (can) "J. Hungerford Smith's Cream-Pak Brand Humboldt * * * Strawberry Puree."

LIBELED: 7-9-64, Dist. N. Dak.

CHARGE: 402(a)(3)—contained decomposed strawberries when shipped.

DISPOSITION: 8-31-64. Default—destruction.

PRESERVES

30054. Fig preserves. (F.D.C. No. 50723. S. No. 72-877 A.)

QUANTITY: 67 cases, each containing 12 14½-oz. jars, at Montgomery, Ala.

SHIPPED: 9-13-64, from League City, Tex., by J. Garth Co.

LABEL IN PART: (Jar) "Sunday Dinner Brand Famous Old Fashion Preserved Figs * * * Packed for Schloss & Kahn, Inc., Montgomery, Ala."

RESULTS OF INVESTIGATION: The articles contained approximately 62.5 percent of soluble solids.

LIBELED: 11-2-64, M. Dist. Ala.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for fig preserves as prescribed by regulations since it contained less than 65 percent soluble solids as determined by the method prescribed in the definitions and standard.

DISPOSITION: On or about 12-7-64, Schloss & Kahn, Inc., filed a claim of ownership. On 1-16-65, the Government served interrogatories and a request for admissions. On 2-2-65, upon consent of the claimant, a consent decree of condemnation was filed and the article was subsequently relabeled as "Imitation Fig Preserves."

VEGETABLES AND VEGETABLE PRODUCTS

30055. Dried pinto beans, Great Northern beans, and red beans. (Inj. No. 498.)

COMPLAINT FOR INJUNCTION FILED: 9-16-64, Dist. Idaho, against Pearl F. Ahlquist, t/a Wendell Elevator Co., Wendell, Idaho, and Melvin L. Gates, Charles E. Freeman, and Blair Smith, manager, bookkeeper, and warehouseman, respectively, of the Wendell Elevator Co.

CHARGE: The complaint alleged that the defendants were engaged in receiving, storing, processing, bagging, and introducing and causing to be introduced into interstate commerce and delivering and causing to be delivered for introduction into interstate commerce, pinto beans, Great Northern beans, and red beans for human consumption which were adulterated within the meaning of 402(a)(3) because of the presence of rodent urine and/or rodent excreta pellets, and within the meaning of 402(a)(4) because they had been prepared, packed, or held at the plant of the Wendell Elevator Co. under insanitary conditions.

It was alleged further that the insanitary conditions of the Wendell Elevator Co.'s plant resulted from and consisted of the presence of the following:

A. Contamination by rodents of all lots of said food, to wit: (1) Rodent urine and/or rodent excreta pellets on approximately 18 percent of the bags examined of a 2,184-bag lot of pinto beans, and rodent urine on the beans inside the bags. (2) Rodent urine and/or rodent excreta pellets on approximately 16 percent of the bags examined of a 7,900-bag lot of pinto beans, and rodent urine on the beans inside the bags. (3) Rodent urine and/or rodent excreta pellets on approximately 39 percent of the bags examined of a 4,312-bag lot of Great Northern beans, rodent-gnawed bean fragments across the bags, and rodent urine on the beans inside the bags. (4) Rodent urine and/or rodent excreta pellets on approximately 18 percent of the bags examined of a 2,437-bag lot of red beans, and rodent urine on the beans inside the bags. B. Insanitary conditions proximate to the beans: (1) Adjacent to bags of pinto beans near the east wall of said upper bean warehouse section of the plant approximately 92 rodent pellets in an 8' x 18' area, approximately 89 rodent pellets within 6 inches of one of the bags of pinto beans, and a dead mouse within 15 feet of the bags of pinto beans. (2) Adjacent to stacked bags of pinto beans in the upper bean warehouse section of said structure, approximately 52 rodent pellets on an 8' x 18' length of crossbeam. (3) Adjacent to bags of red beans, mouse tracks and approximately 55 rodent pellets, in the dust, on an 8' x 16' area of a crossbeam. C. Other insanitary conditions: (1) Three holes permitting the access of rodents, in the plant's south wall. (2) Five dead mice and one dead cat in the basement near the doorway to the upper bean warehouse section. (3) Rodent harborage, rodent holes, and numerous rodent excreta pellets in the basement. (4) One dead rabbit, bean spillage, mouse tracks, and piles of lumber near the boots of the bean legs. (5) Rodent excreta pellets adjacent to the small open north door into the lower bean warehouse section. (6) Hole permitting the access of rodents into lower bean warehouse section, mouse pellets adjacent to such hole, and one dead cat in that vicinity. (7) Sparrows feeding on the wheat spillage about the open dump pit doors adjacent to said elevator section. (8) Spillage of beans adjacent to bean processing equipment on the second floor. (9) Unwashed beans bearing evidence of rodent urine being rebagged. (10) Approximately 100 rodent excreta pellets per foot near the walls of various sections of the plant which had not been swept recently.

DISPOSITION: 9-24-64. The defendants having consented, the court entered a decree of permanent injunction which provided as follows: That the defendants, and each and all of their officers, agents, servants, employees, representatives, and all and any persons in active concert or participation with them be perpetually restrained and enjoined from directly or indirectly doing any of the following acts: (1) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of 301(a), any pinto beans, Great Northern beans, and red beans for human consumption, or any similar article of food, which were adulterated within the meaning of 402(a) (3) in that they consisted in part of a filthy substance, or which were adulterated within the meaning of 402(a) (4) in that they had been held under insanitary conditions whereby they might have become contaminated with filth; and (2) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, any pinto beans, Great Northern beans, and red beans, for human consumption, or any similar article of food, processed or held in the defendants' frame and sheet-metal warehouse and elevator structure at Wendell, Idaho, unless and until (a) said structure was thoroughly cleaned and ren-

dered suitable for use in connection with the processing and storage of pinto beans, Great Northern beans, and red beans for human consumption and any similar article of food, to wit, unless and until all rodent infestation in and about said structure was eliminated, the means of ingress and egress of said structure by rodents, rabbits, cats, and birds were closed, and any similar insanitary conditions which might result in pinto beans, Great Northern beans, or red beans for human consumption being contaminated with filth while processed or stored in said structure were eliminated, and (b) all of the pinto beans, Great Northern beans, and red beans which were on hand in said structure at the time said structure was cleaned, renovated, and rendered suitable for the processing and storing of food for human consumption, were destroyed, denatured for use as animal feed, cleaned, or reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision paid by the defendants.

30056. Dried pinto beans. (F.D.C. No. 50502. S. No. 98-449 A.)

QUANTITY: 420 100-lb. bags at Stockton, Calif., in possession of Valley Bean Warehouse, Inc.

SHIPPED: 7-1-64, from Twin Falls, Idaho.

LIBELED: 8-18-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-6-64. Consent—claimed by Klein Bros., Inc., Stockton, Calif., and denatured for use as seed.

30057. Dried pinto beans. (F.D.C. No. 50250. S. No. 96-801 A.)

QUANTITY: 430 100-lb. bags at Manteca, Calif.

SHIPPED: 5-21-64, from Wendell, Idaho, by Shields.

LABEL IN PART: (Bag) "Pinto Beans Packed by Wendell Elevator Co. Wendell, Idaho."

RESULTS OF INVESTIGATION: Inspection of packer, Wendell Elevator Co., Wendell, Idaho, showed article had been held prior to shipment in a rodent-infested warehouse.

LIBELED: 7-9-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-5-64. Consent—claimed by James T. Shields, James H. Shields, Jr., and Jane Shields Redman, t/a Shields, a partnership, Buhl, Idaho. Segregated and reconditioned; 400 lbs. destroyed.

30058. Dried Great Northern beans. (F.D.C. No. 50241. S. Nos. 96-802/3 A.)

QUANTITY: 430 100-lb. bags at Manteca, Calif., in possession of Manteca Bean Co.

SHIPPED: 3-16-64, from Buhl, Idaho.

LIBELED: 6-29-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.