

LABEL IN PART: (Bag) "Bewleys' Best Enriched Flour Bewley Mills Worth, Tex."

LIBELED: 8-28-58, E. Dist. La.

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

DISPOSITION: 10-13-58. Default—destruction.

25162. Flour. (F.D.C. No. 42002. S. No. 34-799 P.)

QUANTITY: 32 100-lb. bags, at Philadelphia, Pa., in possession of Par. Supply Co.

SHIPPED: 7-8-58, from Buffalo, N.Y.

LIBELED: 8-28-58, E. Dist. Pa.

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

DISPOSITION: 11-5-58. Default—destruction.

25163. Corn flour. (F.D.C. No. 42001. S. Nos. 8-002/3 P, 8-006 P.)

QUANTITY: 338 100-lb. bags at Lynn, Mass.

SHIPPED: Between 3-3-58 and 7-30-58, from Wilkes-Barre, Pa., Milwaukee Wis., and Chicago, Ill.

LIBELED: 8-22-58, Dist. Mass.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-24-58. Consent—claimed by Frank T. Howard Corp., Ly Mass., and denatured for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

25164. Wheat. (Inj. No. 332.)

COMPLAINT FOR INJUNCTION FILED: 5-5-58, Dist. S. Dak., against South Dakota Wheat Growers Association, a corporation, Aberdeen, S. Dak., and Charles Croes, general manager and treasurer.

CHARGE: The complaint alleged that the defendants operated grain elevators at Nahon, Plana, Randolph, Takoma Park, and Verdon, S. Dak.; that the elevators which were of wood construction with crib-type bins were open only during harvest season, and when specific shipments were being loaded out or being received; that at all other times the elevators were closed, and there were no local managers on the premises; that the defendants were engaged in storing and distributing wheat for human consumption; and that the defendants had been and were at the time of filing the complaint causing to be introduced and delivered for introduction into interstate commerce wheat which was adulterated within the meaning of 402(a)(3) and (4) because of reason of contamination with rodent, insect, and bird filth, and by reason of being held under insanitary conditions at the defendants' elevators and annexes at the above-mentioned places.

It was alleged further that the insanitary conditions resulted from and consisted of the following:

Nahon Elevator No. 1—bird and rodent excreta pellets and static grain to a depth of 1/2 inch in the driveway; rodent holes in the outside elevator wall; rodent-gnawed holes into the side of the elevator from the outside, and rodent

*See also Nos. 25158, 25160, 25197, 25211, 25228.

tunneling into the dirt outside the elevator walls; a dead mouse in the static grain on the first floor, and rodent pellets over the entire first floor; dead mice, large animal or human excreta, rodent pellets, and two inches of static grain over the entire floor of a storage bin; rodent pellets and rodent trails on the surface of the stored wheat in bins; a rodent nest on the surface of stored wheat, and a dead cat, a dead rat, dead mice, rodent tunnels, and static grain underneath the elevator.

Nahon Elevator No. 2—a dead mouse, live birds, and rodent pellets and bird excreta over the entire first floor; rodent pellets on the landings of the stairs between the first floor and headhouse; rodent pellets on the floor of the headhouse; a dead mouse, a live mouse, rodent pellets, rodent tunneling, and rodent trails on the surface of the stored wheat; and rodent holes in the walls of grain bins; dead mice and rodent pellets on the floor of a grain bin; and a rodent runway in the dust on the top of the crib wall of a grain bin.

Nahon Elevator No. 3—a dead bird, dead mice, a live bird, rodent pellets, and up to one foot of static grain covered with rodent excreta and bird excreta in a large hopper bin underneath an overhead chute on the first floor; bird excreta pellets and static grain and dust up to one-half inch deep on the gallery floor; a live bird, rodent pellets, and bird excreta on the floor and ledges up to a depth of two inches in the headhouse; rodent pellets and rodent tracks on the surface of the stored grain; a dead bird on the surface of stored grain; and a dead cat and piles of static oats underneath the elevator.

Plana Elevators No. 1 and 2 and attached annex—rodent and bird excreta pellets over the entire first floor, and bird excreta pellets also on the elevator scales in Elevator No. 1; rodent pellets, insect skins, and static grain and dust up to one-quarter inch deep over the entire headhouse floor of Elevator No. 1; rodent pellets and large animal or human excreta in the gallery of Elevator No. 1; rodent pellets on the surface of wheat and on the ledge along the side of a grain bin, and live mice on the surface of the stored grain in Elevator No. 1; the presence of rodent pellets on the floor, bird excreta pellets on the ledge, and static grain and dust up to two inches deep around the openings to the bin chutes in the headhouse of Elevator No. 2, as well as rodent pellets on the surface of the grain in the bins of such elevator; an extremely penetrating odor of skunk underneath the elevators; the presence of openings along the top and between the centers of the driveway doors, live birds flying over the wheat, and rodent pellets on the surface of the wheat in the annex.

Randolph Elevator No. 1 and annex—dead mice and rodent excreta pellets on the first floor; static wheat and dust up to four inches deep covering the entire floor area of the headhouse, along with insect runs and rodent pellets; live and dead mice, rodent pellets, rodent entry holes in the walls, and rodent pellets on the sill over a grain bin; a dead rat, rodent tunnel holes, and stacks of static wheat with rodent tunneling underneath the elevator; rat pellets on the surface of the wheat inside the annex, and a dead rat, dead mice, and rodent pellets between the inner and outer walls of the annex.

Randolph Elevator No. 2—static wheat, dead mice, rodent pellets, and animal or human filth on the first floor; rodent pellets and bird pellets around the walls, all walkways and ledges over bins, the ledge at the junction of the roof and the wall, and on the floor area of the headhouse; and rodent pellets on the surface of the stored wheat.

Takoma Park Elevator—openings along the bottom of both doors about half inch wide offering access to rodents; a hole in the inside south wall of the first floor leading to rodent tunneling in the outside wall, with the floor underneath the hole covered with rodent pellets, bait, and miscellaneous debris; dead mice, rodent pellets, and static grain throughout the entire first floor and on the clipper type cleaner; static grain up to one inch deep on the floor of the headhouse with rodent pellets and rodent trails through the static grain; a rodent runway leading to a drive motor, and rodent-gnawed holes in 2" x 6" studs leading to the wall in the headhouse; a mouse nest and a live mouse in static grain in a hopper scale; rodent runways along the north wall, rodent-gnawed holes in 2" x 6" studs, and rodent pellets and insect skins on the gallery floor; dead rodents, some partially consumed rodent pellets and rodent trails on the surface of stored wheat; rodent holes in the walls of grain bins; a badly cracked concrete foundation allowing easy access to rodents; static grain up to four inches deep underneath the elevator with numerous rodent tunnels into the ground, and openings on the top of the front and back pits with a rodent hole into the back pit underneath the elevator.

Verdon Elevator No. 1—live birds flying through the building, bird nests at the junction of the wall and the roof of the building outside, and openings between the top of the doors and the wall; bird pellets over the entire first floor and near the manlift; rodent pellets and a dead mouse on the first floor and up to one foot of static grain with a mouse nest and a dead mouse in a hopper-type scale on the first floor; rodent pellets and rodent trails on the surface of the wheat stored in bins with rodent holes in the bin walls; rodent tunneling, musty wheat, and dead mice on the surface of stored wheat; rodent pellets, bird pellets, insect skins, and static dust up to a depth of one-half inch over the entire headhouse floor; and bird feathers, bird excreta, rodent pellets and about 50 bushels of static grain in the front dump pit.

Verdon Elevator No. 2—openings above the door, live birds, bird excreta and rodent pellets in the driveway; rodent pellets inside the scale box and all over the first floor; live rodents, rodent pellets, and rodent trails on the surface of the wheat stored in the bins; rodent holes in the walls of grain bins; an opening in the side of the back dump pit providing access to rodents; static grain up to a depth of one foot in the front dump pit; a dead rat, a dead cat, rodent tunnels into the dirt, rodent pellets, and two piles of static wheat underneath the elevator; a dead cat near the north outside wall; dead cats, a live rat, many pieces of tin, and other debris in the area immediately surrounding the elevator; and rodent tunneling around the elevator, and a rodent hole in the outside east wall of the elevator about five feet above the grain.

DISPOSITION: 5-15-58. The defendants having consented, the court entered a decree of permanent injunction enjoining the defendants from directly or indirectly causing to be introduced or delivered for introduction into interstate commerce, wheat, for human consumption, held in the defendants' elevators and annexes at Nahon, Plana, Randolph, Takoma Park, and Verdon, S. Dak. unless and until the following acts were done:

(a) the elevators and annexes were thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption, and all rodent, bird, animal, and insect filth, and accumulations of static grain and dust were removed from the elevators and annexes, and all equipment used in storing such wheat was cleaned; all rodent, bird, animal, and insect infestation was

eliminated and their means of ingress and egress to the elevators and annexes were closed; all dead animals were removed and any similar insanitary conditions were eliminated;

(b) all of the wheat for human consumption on hand in the Takoma Park and Verdon elevators was inspected by a representative of the Food and Drug Administration, a detailed report of the conditions of the wheat was made to the court, and a further order of the court thereafter entered;

(c) an inspection was made of the defendants' elevators and annexes by a representative of the Food and Drug Administration and a report made to the court showing that the above-described insanitary conditions no longer existed.

25165. Wheat. (Inj. No. 323.)

COMPLAINT FOR INJUNCTION FILED: 1-21-58, Dist. S. Dak., against Cargill, Inc., a corporation, and Wallace S. Rislov, manager of the corporation's elevators at Claremont and Huffton, S. Dak.

CHARGE: The complaint alleged that the defendants were engaged at Claremont and Huffton, S. Dak., in storing and distributing wheat for human consumption, and that the defendants had been and were at the time of filing the complaint causing to be introduced and delivered for introduction into interstate commerce, at Claremont and Huffton, S. Dak., wheat, which was adulterated within the meaning of 402(a)(4) by reason of being held under insanitary conditions at the defendants' above-mentioned elevators whereby it may have become contaminated with filth.

It was alleged further that the insanitary conditions resulted from and consisted of the following:

Claremont Elevator No. 1 and attached annex—bins accessible to rodents, dead mice, rodent excreta pellets, granary weevils and other insects in and on the wheat, and rodent-gnawed holes and rodent tracks in headhouse of elevator; live mice and rodent nests inside the building; birds in the driveway inside the elevator; rodent excreta pellets and live granary weevils in and on the wheat in the open conveyor belt beneath the annex; dead mice beneath buildings; rodent excreta pellets and granary weevils in static wheat on ground beneath buildings; and rodent excreta pellets on the sill around top of annex.

Claremont Elevator No. 2 and annex—bins accessible to rodents; live mice inside building; birds and bird nests in headhouse and driveway inside the elevator; and dead rodents, rodent excreta pellets, and rodent tunneling underneath the building.

Huffton Elevator No. 1 and annex—bins accessible to rodents, and rodent excreta pellets in and on the wheat in the storage bins; dead mice on floor of headhouse; rodent holes at bottom of bins; rodent excreta pellets at bottom of bins and on sill in annex of elevator; live birds in headhouse and driveway inside the elevator; rodent nest on platform in feed warehouse in the annex; and static debris in the conveyor underneath the annex which was open and accessible to rodents and insects.

Huffton Elevator No. 2 and annex—bins accessible to rodents, dead mice, and rodent excreta pellets in and on the wheat; rodent excreta pellets on floor of headhouse and on main floor at bottom of the bins; rodent excreta pellets on sills of annex; birds in driveway inside the elevator; and weevils and other insects, and live rodents and rodent tracks in and on the wheat.