

**26879. Wheat. (Inj. No. 391.)**

COMPLAINT FOR INJUNCTION FILED: 10-21-60, Dist. N. Dak., against Ralph Hegman Co., a corporation, t/a Litchville Elevator Co., Litchville, N. Dak.

CHARGE: The complaint alleged that the defendant operated, at Litchville, N. Dak., a grain storage facility consisting of two main houses of wood frame crib construction; that the main house No. 1 had one annex designated as the West Annex; that the main house No. 2 had an East and West Annex; that the East Annex of main house No. 2 was of wood crib type frame construction with metal siding and contained 2 bins designated No. 5 and No. 6 each with two compartments; that the West Annex of main house No. 2 contained nine bins designated by Nos. 1 through 9; that the defendant was engaged in storing and distributing wheat for human consumption; and that the defendant had been and was 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) by reason of contamination with rodent, insect, and bird filth, and by reason of being held under insanitary conditions at the defendant's grain storage facility at Litchville, N. Dak.

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

Main House No. 1 and its West Annex—a badly cracked foundation in the main house and openings in both the main house and the annex which provided entry for rodents; and insect trails in the dust accumulations on the ledges.

Main House No. 2—numerous openings and cracks providing access by rodents to the interior of the house; insect trails on the spouting room floor where the dust accumulation was approximately  $\frac{1}{2}$ " to  $\frac{3}{4}$ " thick; rodent tracks on the bin beams of bin No. 1 in the head house; a dead mouse on the spouting room floor; a bird nest and excreta on the rafters of the driveway; rodent excreta pellets and insect case skins and insect larvae on the surface of the wheat.

East Annex of Main House No. 2—numerous rodent holes chewed in the framework allowing access by rodents to the top of the bins; rodent pellets averaging 2 per square foot on the surface of the wheat in the center area of bins No. 5 and 6; rodent pellets averaging 5 to 10 per square foot on the surface of the wheat in the four corner areas of bins No. 5 and 6; rodent pellets on structural braces in bins No. 5 and 6; rodent trails on the surface of the wheat in bin No. 5; rodent hairs in the crib walls of bin No. 5; and the presence of rodent, insect, and bird filth in the wheat.

West Annex of Main House No. 2—an ill-fitting door, allowing access of rodents into the basement; numerous rodent tracks on the surface of the wheat and of rodent pellets in almost every corner of each of the nine bins; numerous rodent holes chewed in the corner of some of the bins; rodent pellets averaging from 1 to 12 pellets per square foot in various parts of a number of the bins; rodent pellets on the surface of the wheat accumulated in bin No. 13 of Main House No. 2; and rodent urine, rodent excreta pellets, insects and insect parts in the wheat in various bins in the annex.

The complaint alleged further that the defendant was well aware that his activities were violative of the Act; that inspections of the defendant's grain storage facility at Litchville, N. Dak., had been made by inspectors of the Food and Drug Administration on 4-15-59, 1-6-60, and 6-29-60, at which times the

insanitary conditions were called to the defendant's attention; that seizure had been made in December 1958, of a carload of wheat which was shipped from defendant's grain storage facility; and that despite such warnings, the defendant failed to correct the insanitary conditions and continued to introduce into interstate commerce, wheat adulterated as specified above.

**DISPOSITION:** On 10-21-60, a temporary restraining order was entered against the defendant. On 10-29-60, the defendant having consented, the court entered a decree of permanent injunction enjoining the defendant from directly or indirectly causing to be introduced and delivered for introduction into interstate commerce, wheat, or any similar articles for human consumption, which is adulterated as alleged in the complaint. The defendant was also enjoined and restrained from causing the introduction and delivery for introduction into interstate commerce of wheat, and other similar articles for human consumption held at defendant's grain storage facility at Litchville, N. Dak., unless and until:

- (a) the grain storage facility was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat, and other similar articles for human consumption, all rodent, insect, and bird filth was removed from the storage facility, and the equipment used in storing the food was cleaned, the means of ingress and egress to the storage facility by rodents, insects, and birds were closed, and any similar insanitary conditions were eliminated;
- (b) the wheat, or other similar articles for human consumption, which was on hand at the storage facility, was reconditioned and made suitable for human consumption under the supervision of the Food and Drug Administration;
- (c) all contaminated wheat, or other articles for human consumption, was sold and delivered by defendant, under the supervision of the Food and Drug Administration, for use as animal feed only;
- (d) all expenses of the supervision referred to above were paid by the defendant; and
- (e) an inspection was made of the storage facility by a representative of the Food and Drug Administration with all expenses of such inspection being paid by the defendant, and a report made to the court showing that the insanitary conditions no longer existed, and that the wheat, or other similar articles for human consumption, as described in subparagraphs (b) and (c) had been brought into compliance with the law.

**26880. Wheat.** (F.D.C. No. 44482. S. No. 23-500 R.)

**QUANTITY:** 117,130 lbs. at Kansas City, Kans.

**SHIPPED:** 5-24-60, from Campbell, Nebr., by Campbell Grain Co.

**LIBELED:** 6-9-60, Dist. Kans.

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

**DISPOSITION:** 6-14-60. Consent—claimed by Romeiser Grain Co., Salina, Kans. Segregated; 5,350 lbs. denatured.

**26881. Wheat.** (F.D.C. No. 44507. S. No. 44-591 R.)

**QUANTITY:** 101,990 lbs. at Spokane, Wash.

**SHIPPED:** 6-13-60, from Cascade, Mont., by Greely Elevator Co.

**LIBELED:** 6-27-60, E. Dist. Wash.

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