



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration

33968d

1990 MacArthur Blvd., Ste 300
Irvine, California 92612-2445
Telephone (949) 798-7600

WARNING LETTER

April 28, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W/L 31-03

David Vander Schaaf
Owner
David Vander Schaaf Dairy
7777 Schaefer Ave.
Ontario, CA 91761

Dear Mr. Vander Schaaf:

Our records reflect you are the owner of David Vander Schaaf Dairy located at 7849 Schaefer Ave., Ontario, CA. An investigation of your dairy operation conducted by our investigator on March 11-12, 2003, confirmed that you offered animals for sale for slaughter as food which is in violation of Sections 402(a)(2)(C)(ii) and 402(a)(4) of the Federal Food, Drug and Cosmetic Act (henceforth the "Act").

A food is adulterated under Section 402(a)(2)(C)(ii) of the Act if it contains a new animal drug that is unsafe within the meaning of Section 512 of the Act. A food is further adulterated under Section 402(a)(4) of the Act if it has been held under conditions whereby it may have been rendered injurious to health.

On or about December 9, 2002, you sold a culled dairy cow identified by USDA Laboratory report 434113 for slaughter as human food. USDA analysis of tissue samples collected from that animal identified the presence of oxytetracycline in the muscle at 9.26 parts per million (ppm), in the kidney at 105.67 ppm and in the liver at 16.66 ppm. A tolerance of 2.0 ppm, 12.0 ppm and 6.0 ppm has been established for residues of oxytetracycline in the muscle, kidney and liver tissues of cattle respectively.

Letter to Mr. Vander Schaaf

April 28, 2003

Page 2

Our investigation also found that you hold animals under improper conditions whereby diseased animals and/or medicated animals bearing potentially harmful drug residues are likely to enter the food supply. For example, you lack an adequate system for assuring that animals medicated by you have been withheld from slaughter for the appropriate periods of time to permit depletion of potentially hazardous residues of drugs from edible tissues. Foods from animals held under such conditions are considered adulterated under the Act.

It was further determined that you are using drugs in a manner contrary to their approved labeling. Such extra-label use is not permitted, except by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship, and otherwise in compliance with the limitations set forth for specific extra-label uses. [21 CFR 530.10 and 530.11] Your use of drugs in any manner other than as labeled causes those drugs to be adulterated under Section 501 (a)(5) of the Act because there is no approval for such use as required by Section 512 (a)(1)(B) of the Act.

- You are adulterating powdered tetracycline/oxytetracycline, such as AGRIPharm Tetracycline 324 Powder, that you use on dairy cattle in a manner contrary to the approved labeling. Powdered tetracycline/oxytetracycline is labeled for oral use in cattle. Your combination of the powder with sterile water for intra-uterine infusion is not in accordance with the approved labeling.

The above is not intended to be an all-inclusive list of violations. Government records available to us indicate there have been other occasions when you have offered drug-adulterated animals for sale as human food. As a producer of animals, which are offered for use as food, you are responsible for assuring that your overall operations and the food you distribute are in compliance with the law.

Please note that it is not necessary for you to personally ship an adulterated animal in interstate commerce to be responsible for a violation of the Act. The fact that you caused the adulteration of an animal that was sold to a slaughterhouse which ships in interstate commerce is sufficient to hold you responsible for a violation of the Act.

You should take prompt action to correct the above violations and to assure that the procedures you have established will prevent their recurrence. Failure to do so may result in regulatory action, such as injunction, without further notice. This letter constitutes official notification under the law and provides you an opportunity to correct.

Please advise this office in writing within fifteen (15) working days of receipt of this letter of the steps you have taken to bring your dairy into compliance with the law. Your response should include each step that has been taken to correct the violations and prevent their recurrence. If corrective action cannot be taken within fifteen (15) working days, state the reason for the delay and the time within which such corrections will be made. If you have any questions or need clarifications regarding this letter prior to your

Letter to Mr. Vander Schaaf

April 28, 2003

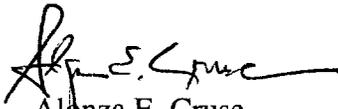
Page 3

written response, you may contact Barbara Rincon, Compliance Officer at telephone number (949) 798-7739.

Your written response should be directed to:

Acting Director, Compliance Branch
U.S. Food and Drug Administration
19900 MacArthur Blvd., Ste. 300
Irvine, CA 92612-2445

Sincerely,

A handwritten signature in black ink, appearing to read "Alonza E. Cruse". The signature is stylized with a large initial "A" and a long horizontal stroke extending to the right.

Alonza E. Cruse
District Director