



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration
M 23547

19900 MacArthur Blvd., Ste 300
Irvine, California 92612-2445
Telephone (949) 798-7600

WARNING LETTER

February 2, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tony Martin Sr., Partner
Martin's Dairy
10129 Edison Avenue
Chino, CA 91710

W/L 19-9

Dear Mr. Martin,

An investigation at your dairy operation located at 10129 Edison Avenue, Chino, California, conducted by our investigator on January 6-8 & 12, 1999, confirmed that you offered animals for sale for slaughter as food in violation of Section 402(a)(2)(C)(ii), and 402(a)(4) of the Federal Food, Drug and Cosmetic Act (the Act).

On or about November 5, 1998, you sold a culled dairy cow identified by USDA report #265455 for slaughter as human food at [REDACTED]. USDA analysis of tissue samples collected from that animal identified the presence of oxytetracycline in the kidney at 22 parts per million (ppm) and in the muscle at 2.2 ppm. A tolerance of 12 ppm in the kidney and 2 ppm in the muscle has been established for residues of oxytetracycline in the edible tissues of cattle.

Our investigation also found that you hold animals under conditions which are so inadequate that diseased animals and/or medicated animals bearing potentially harmful drug residues are likely to enter the food supply. For example, you lack the conditions of an adequate system for assuring that drugs are used in a manner not contrary to the directions contained in the labeling and for assuring that animals medicated by you, or your veterinarian, have been withheld from slaughter for the appropriate period of time to permit depletion of potentially hazardous residues of drugs from edible tissues. Food from animals held under such conditions is adulterated.

The following new animal drug found on your premises, is adulterated under Section 501(a)(5) of the Act, when used, as was indicated to our investigator, in a manner contrary to the approved labeling:

Injectable penicillin G procaine is labeled for a dosage of 1 cc/100lbs with a maximum of 10 ccs per injection site. Your use of 30 ccs at one site is greater than labeled.

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The above is not intended to be an all-inclusive list of violations. As a producer of animals which are offered for use as food, you are responsible for assuring that your overall operation and the food you distribute are in compliance with the law.

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 without further notice, such as injunction.

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 Federal Food, Drug and Cosmetic Act. The fact that you caused the adulteration of an animal that was sold to a slaughterhouse that ships in interstate commerce is sufficient to hold you responsible for a violation of the Act.

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 firm 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.

Your response should be directed to:

Barbara J. Rincon
Consumer Safety Officer
U.S. Food & Drug Administration
19900 MacArthur Blvd., Ste. 300
Irvine, CA 92612

Sincerely,


Elaine C. Messa
District Director

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cc: Steve Wong, Branch Chief
State of California
Department of Food & Agriculture
P.O. Box 942871
Sacramento, CA 94271-0001

Frank N. Walton, DVM
Euclid Veterinary Hospital
13525 Euclid Ave.
Ontario, CA 91726