



DEPARTMENT OF HEALTH & HUMAN SERVICES

m362n.pdf 11/1/97  
Public Health Service  
Food and Drug Administration

San Francisco District  
1431 Harbor Bay Parkway  
Alameda, California 94502-7070  
Telephone: 510-337-6700

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Our Reference 29-50565

October 20, 1997

Tony Dutra, President  
Dutra Farms, Inc.  
5496 West Ripon Road  
Manteca, California 95337

**WARNING LETTER**

Dear Mr. Dutra:

Tissue residue reports from the United States Department of Agriculture (USDA) and an investigation of your dairy on September 30, 1997, by Food and Drug Administration (FDA) Investigator Karen L. Robles have revealed serious violations of the Federal Food, Drug, and Cosmetic Act as follows:

A food is adulterated under Section 402(a)(2)(D) of the Act if it contains a new animal drug that is unsafe within the meaning of Section 512. On July 24, 1997, you sold a calf (identified by USDA laboratory report number 256422) for slaughter as human food. This calf was delivered for introduction into interstate commerce by your firm and was adulterated by the presence of illegal drug residues. USDA analysis of tissues from this calf revealed oxytetracycline in the kidney at 44.00 parts per million (ppm), in the liver at 17.00 ppm, and in the muscle at 4.00 ppm. Presently, the tolerance levels for oxytetracycline in the edible tissues of cattle have been established at 12 ppm in the kidney, 6 ppm in the liver, and 2 ppm in the muscle tissues.

A food is adulterated under Section 402(a)(4) of the Act "if it has been prepared, packed, or held under insanitary conditions...whereby it may have been rendered injurious to health." As it applies in this case, "insanitary conditions" means that you hold animals which are ultimately offered for sale for slaughter as food under conditions which are so inadequate that medicated animals bearing possibly harmful drug residues are likely to enter the food supply. For example, our investigator noted the following:

1. You lack an adequate system for assuring that animals to which you administer medication have been withheld from slaughter for appropriate periods of time to deplete potentially hazardous residues of drugs.
2. You lack an adequate system for assuring that drugs are used in a manner not contrary to the directions contained in their labeling.
3. You lack an adequate inventory system for determining the quantities of drugs used to medicate your cows and calves.

You are adulterating the drug oxytetracycline contained in Calf's Choice brand milk replacer within the meaning of Section 501(a)(5) of the Act in that it is a new animal drug within the meaning of Section 201(v) and unsafe within the meaning of Section 512(a)(1)(B) of the Act since it is not being used in conformance with its approved labeling. Labeling for Calf's Choice specifies a preslaughter withdrawal time of five days. Failure to adhere to an adequate withdrawal time is likely the cause of the illegal oxytetracycline residues in the calf you sold for food use. Failure to comply with the label instructions on a drug presents the likely possibility that illegal residues will occur and makes the drug unsafe for use.

We request that you take prompt action to ensure that animals which you offer for sale as human food will not be adulterated with drugs or contain illegal residues.

Introducing adulterated foods into interstate commerce is a violation of Section 301(a) of the Act.

Causing the adulteration of drugs after receipt in interstate commerce is a violation of Section 301(k) of the Act.

You should be aware that it is not necessary for you to have personally shipped an adulterated animal in interstate commerce to be responsible for a violation of the Act. The fact that you offered an adulterated animal for sale to a slaughter facility where it was held for sale in interstate commerce is sufficient to make you responsible for violations of the Act.

Dutra Farms, Inc.  
Manteca, CA.

3

Within fifteen (15) days of the receipt of this letter, notify our Sacramento resident post office in writing of the specific steps you have taken to correct these violations and preclude their recurrence. If corrective action cannot be completed within fifteen working days, state the reason for the delay and the time frame within which corrections will be completed. Your response should address each discrepancy brought to your attention during the inspection and in this letter, and should include copies of any documentation demonstrating that corrections have been made. Please direct your reply to Karen L. Robles, Investigator, U.S. Food and Drug Administration, 801 I Street Room 443, Sacramento, California 95814.

Sincerely yours,

*Charles D. Moss*  
*Acting District Director*

for: Patricia Ziobro  
District Director  
San Francisco District