

IN THE CIRCUIT COURT OF HOWELL COUNTY, MISSOURI
DIVISION I

FILED

FEB 23 2011

CINDY WEEKS
Circuit Clerk, Howell County MO

State ex rel. Chris Koster, Attorney)
General; Missouri Department of)
Agriculture; and Missouri State Milk)
Board,)
)
Plaintiffs,)
)
)
v.)
)
Morningland of the Ozarks, LLC,)
d/b/a Morningland Dairy)

No. 10AL-CC00135

FINAL ORDER OF PERMANENT INJUNCTION

On the 11th and 12th days of January 2011, this matter came before the Court on Plaintiff's Petition for Injunctive Relief. Plaintiff was represented by Assistant Attorneys General Jessica L. Blome and Laura Bailey Brown, and Defendant Morningland of the Ozarks, LLC, d/b/a Morningland Dairy was represented by David G. Cox, esq. and Jaired B. Hall, esq. The Court, having heard the evidence, does now find and order as follows.

FINDINGS

1. The Court has jurisdiction of the parties and subject matter of the action as properly invoked by Petition for Injunctive Relief
2. Reasonable Notice of the Petition and Application was provided to Defendants.
3. The present suit being instituted by the State of Missouri on its own behalf, the posting of bonds as a condition for the issuance of relief is not required under Rule 92.02(C).

4. The findings recited in the Court's "Judgment and Order" of this date are hereby incorporated by this reference as though fully stated herein

5. Plaintiff has demonstrated that no adequate remedy at law exists such that a permanent injunction is necessary to prevent immediate and irreparable injury, loss, or damage.

6. Plaintiff's application for injunctive relief is granted

ORDERS

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, as follows:

7. Defendant Morningland of the Ozarks, LLC shall destroy all of its cheese products condemned by the Missouri State Milk Board on August 26, 2010, pursuant to the Board's October 1, 2010, destruction letter under the supervision of the Director of the Department of Agriculture, save and except for eleven (11) blocks said to have been imported from Wisconsin, as to which condemnation shall be released.

8. Defendant shall implement the following practices for all future production of cheese products:

- a. Maintain records assuring that no cheese is sold, offered or exposed for sale prior to the prescribed ripening time for that cheese type;
- b. Improve recordkeeping and documentation, including but not limited to
 - i. maintaining contemporaneous documentation of the date on which each batch of cheese is produced, the date the cheese is cut, and the date the cheese has ripened;

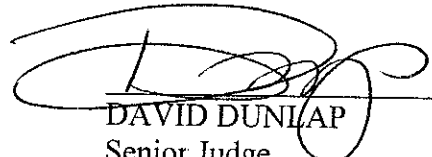
- ii. testing, recording, and maintaining accurate records of cheese acidity levels at specified intervals throughout the cheese production process;
 - iii. maintaining recording charts for the regular monitoring of plant and storage temperatures;
 - c. Submit samples of each batch of cheese ripening within 60 days following entry of this order for microbiological testing prior to shipment, unless sooner excused by the Board. Testing should be done by a laboratory utilizing FDA-approved methods.
 - d. Assure that all cheese products are ripened in a constant temperature environment of 50 to 55 degrees Fahrenheit;
 - e. Provide an HACCP-type temperature recorder for continuous temperature monitoring of refrigerated storage areas;
 - f. Segregate fresh raw cheese from aged cheese by use of separate rooms and equipment for ripening, cooling, and storing, or such other method as will prevent cross-contamination.
9. Prior to resuming production, and continuing for all future production of cheese products, Defendant shall:
- g. Utilize Listex bacteria phage, a GRAS substance that kills Listeria, in a fogger throughout the facility;
 - h. Repair irregular portions of the floor covering in cheese making rooms and cheese packaging areas to provide a smooth and cleanable surface;

- i. Utilize foam cleaners and sanitizers on floors, walls, and ceiling throughout the facility and allow sufficient contact time for chemicals to work effectively;
- k. Require all personnel to wear dedicated smocks, head covers, and latex gloves when handling raw milk and cheese products;
- l. Use quaternary ammonia sanitizer rings in floor drains;
- m. Require persons entering plant to use sanitizer foot bath;
- n. Replace old cheese harp with new cleaner design harps;
- o. Renovate cheese shovel track above the cheese vat to provide a cleaner design;
- p. Sanitize cheese cutting equipment between batch runs of cheese;
- q. Replace milk transfer hose with a hose having shorter readily cleanable sections;
- r. Provide positive air pressure in cheese production and packaging areas with micron filter for incoming air;
- s. Discontinue using "reused" pasteboard boxes in the facility.
- 10. Prior to resuming production and regularly thereafter,
 - t. verify that no animal supplying milk for use in the production of Defendant's cheese is infected with mastitis; and immediately discontinue the use of any infected animal's milk in the production of cheese until and unless the animal's mastitis has been cured;
 - u. disinfect the teats of each milk animal after milking.
- 11. The Missouri State Milk Board and its agents shall have authority to enter any facility covered by this Order at all reasonable times and without notice, including all

times in which production other than ripening is occurring, for the purposes of monitoring the progress of activity required by this Order, for taking inventory of Defendant's products, and for obtaining samples. This provision in no way limits or expands any right of entry provided pursuant to applicable federal or state laws, regulations or permits.

12 Nothing in this Final Order of Permanent Injunction shall prevent Plaintiff from applying to this Court for further orders or relief to enforce this Order in case of violation.

So ordered this 23rd day of February 2011.


DAVID DUNLAP
Senior Judge