



CORNUCOPIA
I N S T I T U T E

December 14, 2009

TO: Office of Compliance, National Organic Program
RE: Complaint concerning violation of the Organic Foods Production Act and National Organic Program's regulatory standards by Dean Foods/WhiteWave division

Dear Mr./Ms. –

The Cornucopia Institute is filing this complaint with your office concerning possible violation of the Organic Foods Production Act (OFPA) and National Organic Program (NOP) regulatory standards by Dean Foods' WhiteWave division, based in Broomfield, CO. The Cornucopia Institute presents evidence regarding the representation of non-organic soymilk products as organic by Dean Foods/WhiteWave.

Specifically, Dean Foods/WhiteWave shows images of Silk soymilk cartons on its website with the term "organic" pictured on the label, when in fact Dean Foods/WhiteWave has been sourcing this product line with conventional soybeans since early 2009. The website potentially reaches millions of consumers with this false representation.

Evidence of the alleged fraudulent and illegal practice can be found at <http://www.whitewave.com/who-we-are/>. It appears as one of the four primary rotating images on this portion of the WhiteWave webpage.

The misrepresentation to consumers of products as organic is covered by the following section of the Organic Foods Production Act:

§ SEC. 2106 [7 USC 6505] COMPLIANCE REQUIREMENTS.

(a) DOMESTIC PRODUCTS.—

(1) IN GENERAL.—On or after Oct. 1, 1993—

(A) a person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this title; and

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this title.

Federal regulations administered by the National Organic Program provide further guidance for punitive action for misrepresenting the sale of non-organic products as organic in the following section:

§ 205.100 What has to be certified.

(c) Any operation that:

(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than \$10,000 per violation.

Contact information for Dean Foods' WhiteWave division is:

Mr. Blaine McPeak
12002 Airport Blvd.
Broomfield, CO 80021
(303) 635-4510

We are asking that you fully investigate this complaint to determine whether violations of the Organic Foods Production Act and federal organic regulations have occurred and, are occurring, or will occur. At the conclusion of your investigation, we ask that you take all warranted enforcement actions to bring this retailer into compliance with the OFPA and NOP rules in a timely fashion and to fine the company if appropriate.

We expect the USDA to take these allegations seriously and conduct a meaningful investigation. Violations of this nature, if proven to be true, undermine the integrity of organic food and production and damage consumer confidence in organics. Failure to fully enforce the law will only encourage future scofflaws and organic product misrepresentations, and it will make a mockery of the federal organic regulations that are so diligently observed by the vast majority of participants in the nation's organic agriculture and food sector.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process cited above.

You may contact us at your convenience.

Sincerely,



Will Fantle
Director of Research
715-839-7731