

Montesano Creamery Barred From Interstate Cheese Sales

Local News

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MONTESANO, Wash. - The Estrella Family Creamery (Estrella) in Montesano, Washington, is now barred by federal court order from producing and selling cheese in interstate commerce. U.S. District Judge Benjamin H. Settle issued the permanent injunction against Estrella last week, and ordered the owners to pay the costs the government incurred when it seized the cheese inventory in October 2010. The U.S. Marshal's Service seized all cheese products at Estrella Family Creamery after repeated tests by the U.S. Food and Drug Administration (FDA) and Washington State Department of Agriculture (WSDA) showed the persistent presence of a pathogen, *Listeria monocytogenes* (*L. mono*), in Estrella's cheese products and facilities. Judge Settle's order authorizes the FDA to inspect Estrella's operations in the future to ensure the creamery is complying with the permanent injunction. On October 21, 2010, the government filed a civil forfeiture action against Estrella in order to protect the public against the dissemination of adulterated and potentially contaminated food.

According to the FDA affidavit filed in U.S. District Court in Tacoma, the WSDA collected samples of cheese and cheese ingredients from production areas at the farm on February 1st, 9th, and March 1, 2010. Testing revealed the presence of *L. mono* in the cheese, in the salt brine used in processing the cheese, and in production and storage areas throughout the farm. The pathogen can cause the illness *listeriosis* which can be life threatening for the aged, infirm, very young or immune compromised individuals. The pathogen can be especially dangerous for pregnant women. Estrella recalled a variety of cheeses in February and March 2010 following the test results. However, Estrella refused FDA's request that it recall all cheese following the August 2010 tests which revealed the persistent presence of *L. mono* in the production space and aging rooms. Pursuant to a warrant issued by Judge Settle, the U.S. Marshal's Service seized all of Estrella's cheese products in place on October 21, 2010. Months later, Estrella informed the government that they fed the seized cheese to pigs on their farm, in violation of the court's warrant. On October 24, 2012, Judge Settle granted the government's motion for summary judgment in the case. Holding that the government was entitled to an order of condemnation and an award of costs, Judge Settle stated, "Allowing Defendants to escape liability by feeding the cheese to the pigs would subvert the purpose of the regulatory statute." Judge Settle also entered the government's proposed injunction, which prohibits the creamery from engaging in the production or sale of cheese or other foods in interstate commerce unless it takes comprehensive steps to eradicate *L. mono* from its facilities and implements other critical food safety measures proposed by FDA. The injunction authorizes FDA to inspect the creamery in order to ensure it is complying with the terms of the injunction. The seizure was a civil action undertaken by the FDA. Assistant United States Attorney David East is handling the matter for the U.S. Attorney's Office.