



National Milk Producers Federation

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Agri-Mark, Inc.
Associated Milk
Producers Inc.
Bongards' Creameries
Cooperative Milk
Producers Association
Cortland Bulk Milk
Producers Cooperative
Dairy Farmers of
America, Inc.
Ellsworth
Cooperative Creamery
FarmFirst Dairy
Cooperative
First District Assoc.
Foremost Farms USA
Land O'Lakes, Inc.
Lone Star Milk
Producers
Maryland & Virginia
Milk Producers
Cooperative Association
Michigan Milk
Producers Association
Mid-West
Dairymen's Company
Mount Joy Farmers
Cooperative Association
Northwest Dairy Assoc.
Oneida-Madison Milk
Producers Cooperative
Association
Prairie Farms Dairy, Inc.
Premier Milk Inc.
Scioto County
Cooperative Milk
Producers' Association
Select Milk
Producers, Inc.
Southeast Milk, Inc.
St. Albans Cooperative
Creamery, Inc.
Swiss Valley Farms
Tillamook County
Creamery Association
United Dairymen
of Arizona
Upstate Niagara
Cooperative, Inc.
Zia Milk
Producers, Inc.

September 28, 2017

Ms. Felicia Billingslea
Director Food Labeling and Standards
US Food and Drug Administration
CPK 1 HFS-820
5001 Campus Drive
College Park, MD 20740

Re: Urban Remedy "Blue Magic Cashew Milk"

Dear Ms. Billingslea,

The National Milk Producers Federation (NMPF) is writing to urge FDA to take immediate regulatory action against "Blue Magic Cashew Milk", a product manufactured by Urban Remedy of Richmond, California, for violating applicable food labeling regulations with respect to product standards of identity. We initially wrote a letter to you about this beverage four months ago, when the name on the label of the food was "Blue Magic Milk". Since then the product has been relabeled "[Blue Magic Cashew Milk](#)", but this name is inappropriate as well.

Federal standards of identity exist for a number of foods, establishing a defined set of characteristics and nomenclature unique to those foods and protecting consumers from false and misleading marketing of products masquerading as a standardized food. Any food product that uses a food name established by a standard of identity but does not conform to the essential characteristics established by that standard is by law misbranded (21 U.S.C. §343(g)).

A federal standard of identity has been long established for milk (21 CFR 131.110). As such, "milk" has been defined to specify that the term "milk" must only be used in conjunction with products that conform to the specific provisions of the standard – including being "the lacteal secretion... obtained by the complete milking of one or more healthy cows".

Adding "Blue Magic" and the name of a plant in front of the word "milk" does not result in appropriate names for non-dairy products, as these products do

not contain milk or milk ingredients, the plant-based liquids are not permitted ingredients in milk, nor do they represent the common or usual names of these beverages.

Revising the label to “Blue Magic Cashew Milk” is an inadequate solution to the concerns NMPF raised earlier this year. However, it would be appropriate to refer to the product by a unique name that references the actual content (for example, as a “cashew beverage”) or, if a standardized food term were desired in the product name, it should be accurately labeled as an imitation (e.g., “Imitation Milk”) in accordance with 21 CFR 101.3. NMPF affirms that it is the manufacturer’s choice on how to further identify the source material in the product’s labeling (e.g., “Imitation Milk” with a subsidiary declaration “Made from Cashews”).

Again, we urge FDA to take immediate regulatory action against “Blue Magic Cashew Milk” with respect to applicable food labeling regulations, specifically as related to the use of an established statement of identity.

Please feel free to contact us with any questions or for additional information.

Respectfully,



Beth Panko Briczinski, Ph.D.
Vice President, Dairy Foods & Nutrition

Enclosures

CC: Dr. Stephen W. Beam, Chief, Milk and Dairy Food Safety, CDFA
Dr. Douglas A. Balentine, Director, Office of Nutrition & Food Labeling, FDA-CFSAN
John F. Sheehan, JD, Director, Division of Dairy, Egg & Meat Products, FDA-CFSAN
Dr. Nega Beru, Director, Office of Food Safety, FDA-CFSAN
Ted Elkin, Deputy Director for Regulatory Affairs, FDA-CFSAN

The National Milk Producers Federation, established in 1916 and based in Arlington, VA, develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of dairy producers on Capitol Hill and with government agencies. NMPF provides a forum through which dairy farmers and their cooperatives formulate policy on national issues that affect milk production and marketing.