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July 17, 2003

Docket Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

Re: Docket No. 02N-0434
Withdrawal of Certain Proposed Rules and
Other Proposed Actions; Notice of Intent.

Specifically Re: the proposed withdrawal of **Docket No. 90N-361M**, Declaration of Ingredients-Common or Usual Name Declaration for Protein Hydrolysates and Vegetable Broth in Canned Tuna; **"And/Or" Labeling for Soft Drinks; Proposed Rule; 58 Fed. Reg. 2950, January 6, 1993.**

Dear Sir or Madam:

I know that your organization is making strides in achieving truth in labeling, an important service for this nation's food consumers.

I am writing you regarding a misleading label situation that needs to be changed quickly. I represent both the 500 farm families who own Minn-Dak Farmers Cooperative and our 300 employees.

Minn-Dak Farmers Cooperative, Wahpeton, N.D. is a beet sugar cooperative and we believe this misleading label is not in the best interests of this cooperative or our nation's consumers. Therefore, I urge the FDA to fully withdraw the above referenced proposed rule with regard to the use of "and/or" labeling of sweetener ingredients in soft drinks, and to rescind any and all permission or authority for the use of "and/or" labeling for sweeteners in carbonated drinks and sweetened still beverages that may arguably arise from the May 28, 1997 enforcement letter from the FDA's Office of Food Labeling to the National Soft Drink Association.



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I know that FDA realizes that, FDA cannot be party to continuation of what now constitutes consumer fraud and deception in the labeling of sweetener ingredients used in soft drinks. To continue to mislead consumers would surely violate both law and policy

Ample scientific evidence provides proof that sweeteners are not interchangeable due to differences in metabolization, function and taste. We know that FDA relies on science rather than anecdotal information and await your action on this matter.

Quick action is imperative as the label is the primary method to provide consumers with accurate and reliable information regarding the sweetener ingredients and nutritional quality in soft drinks.

The most current nutritional science evidence now indicates that all natural cane and beet sugar (sucrose) is nutritionally different from high fructose corn syrup (HFCS). Whatever may have been the state of nutritional science when "and/or" labeling was begun two decades ago, there can be no doubt now that the use of "and/or" labeling misleads consumers with respect to the nutritional qualities of sweeteners in soft drinks.

There may have been a variety of factors that justified the "and/or" label two decades ago but times have changed and this is a decision that must be revisited. Two decades ago, sugar was a main ingredient in soft drinks but today HFCS is used in soft drinks and sugar is used rarely.

As FDA itself has recognized, Section 403 (iii) of the Food and Drug Act compels the conclusion that labels on products that do not include the names of specific sweeteners used in the relevant foods constitutes misbranding. It is therefore time to insure that such deception no longer can be perpetrated through the use of "and/or" labeling.

We urge the FDA to take affirmative action to prevent the deception of consumers that results from the continued use of "and/or" labeling for sweeteners used in soft drinks. If I can provide any further information, please do not hesitate to let me know. Thank you for your consideration of Minn-Dak's views on this most important consumer issue.

Sincerely,



David Roche
President and CEO
Minn-Dak Farmers Cooperative