Arbitration Case Number 2533

Plaintiff:    Bunge North America Inc., St. Louis, Mo.


This case involved an action filed by Bunge North America Inc. ("Bunge") against 21st Century Seed Inc. ("21st Century") for damages resulting from the alleged delivery of contaminated soybeans to Bunge’s facility in LaGrange, Mo., on Aug. 27, 2010.

Bunge claimed the load delivered by 21st Century in August 2010 contained soybeans treated with the fungicide Trilex® 2000, which ultimately were mixed with other soybeans in one bin at the LaGrange facility. According to Bunge, the bin was segregated and locked off to avoid any additional contamination within its facility. Subsequently, the soybeans in that bin were hauled to a landfill and disposed. Bunge requested total damages of $50,543.16, including $6,155.86 in disposal and cleaning costs, and $5,471.44 for the inability to use the contaminated bin from Aug. 27 through Oct. 15, 2010. Bunge also requested reimbursement of the NGFA filing fee of $970.55.

Meanwhile, 21st Century claimed Bunge failed to meet its burden of proof that it was 21st Century that had delivered the contaminated soybeans. Further, 21st Century claimed that Bunge failed to mitigate damages by disposing of the entire bin rather than finding an applicable market for the contaminated soybeans. 21st Century requested an award of damages of $5,632, representing the value of the soybeans delivered to Bunge by 21st Century. This amount also was incorporated as a deduction in the total damages claimed by Bunge.

The arbitrators concluded that Bunge’s requested compensation for the costs of the soybeans as well as the hauling, disposal and cleaning charges was reasonable. But the arbitrators believed that Bunge’s request for an additional $5,471.44 for business interruption resulting from the loss of the bin for use was not sufficiently convincing, and concluded they could not adequately assess the extent of those claimed losses.
Based upon all of the information provided in this case, the arbitrators awarded to Bunge $45,071.72, representing Bunge’s damages, less the $5,471.44 claimed for business interruption and the amount of $5,632 due from Bunge to 21st Century. The arbitrators also awarded to Bunge the arbitration filing fee of $970.55, and interest from Oct. 25, 2010 at the rate of 3.25 percent per annum, in accordance with NGFA Arbitration Rule 8(m).

Submitted with the unanimous consent of the arbitrators, whose names appear below:

**Paul Coppin, Chair**  
General Manager  
Reynolds United Cooperative  
Reynolds, N.D.

**Douglas Balvin**  
General Manager  
Canby Farmers Grain Co.  
Canby, Minn.

**Tim Coppage Jr.**  
Merchandising Leader  
Cargill Inc.  
Cordova, Tenn.