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2 Firms Deny PCB Suit Claims

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Two more firms named in a $55-million lawsuit filed over the contamination of fish meal at the Port of Wilmington have joined in a general denial of blame and cross claims against each other.

Answers containing denials they were negligent were filed Wednesday by South Pacific Protein Association Inc. and International Proteins Corp. The Monsanto Co. filed a similar answer last week.

Holly Farms Poultry Industries of Wilkes County filed suit against the firms in U.S. Middle District Court at Greensboro Dec. 9, claiming it was forced to destroy thousands of chickens and eggs contaminated by a chemical potentially toxic to humans.

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THE SUIT'S main thrust was directed at the Monsanto Co., with Holly Farms seeking $55 million from it alone. Monsanto was identified as the supplier of the chemical, liquid polychlorinated biphenyl (PCB), that was used in a pasteurizing device as a heat exchange fluid.

Holly Farms alleged that the device leaked PCB into fish meal that was being pasteurized and which subsequently became part of chicken feed. It held Monsanto responsible in part on the grounds it continued to supply the fluid when it should have known it was to replace PCB that had leaked from the closed heat exchange system of the device.

Monsanto, which Wednesday won a court order directing the preservation of all "records and things" related to the device and its operation, asked that, if it is held liable for any judgment in the case, it be allowed to recover the amount from the other firms.

South Pacific Protein said in its answer that it had contracted with the William J. Moran Co., which is not a party to the suit, to construct the device and to locate it on property owned by the East Coast Terminals Inc. at Wilmington and that it used the machine to pasteurize the fish meal.

(East Coast Terminal, also was named in the Holly Farms suit as owner of port facilities at Wilmington including a portion leased to South Pacific Protein. Also named in the suit was the Wilbur-Ellis Co., as a supplier of the fish meal, but neither Wilbur-Ellis nor East Coast Terminals had filed answers Wednesday.)

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INTERNATIONAL PROTEINS, which Holly Farms also identified as a seller of the fish meal, filed an answer and cross claims similar to those made by South Pacific Protein. They asked that if they are ruled liable, they be allowed to recover from Monsanto and East Coast Terminals as well as from each other.

In a motion asking for an order to protect pertinent records and items, Monsanto said it had made arrangements to inspect the pasteurizing device last Dec. 20 but upon arriving in Wilmington had been denied the privilege.

Monsanto, which said it wants to inspect and photograph the device, plus related equipment, said, however, that it was assured by other lawyers in the case that "matters would be preserved."

As another grounds for the order, Monsanto said it had been informed "that South Pacific Protein Association Inc. is wholly owned by and is controlled by Consorcio Pesquero Del Peru, an agency or public corporation of the government of Peru, which may be beyond the jurisdiction and effective control of this court."

Judge Eugene A. Gordon signed the order which directs the South Pacific and East Coast Terminals companies to "take all action reasonably necessary to locate, collect and preserve all records" and other items "that relate to any of the matters, events and things" involved in the suit and cross claims.

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HE ALSO directed that a hearing be scheduled for a future date on Monsanto's motion to inspect the device and related items, if the chemical company is not first permitted to inspect the premises and equipment at Wilmington.

Each of the firms which has answered the suit has asked for dismissal of Holly Farms claims, but has included the "alternative" judgment requests in the cross claims.