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January 19, 1977

Lon P. MacFarland, Esquire
MacFARLAND, COLLEY, BLANK & JACK
Middle Tennessee Bank Building
Post Office Box 1004
Columbia, Tennessee 34801

RE: Joseph J. Barclay
Our File No. 76-324

Dear Mr. MacFarland:

Thank you for your telephone call of January 18, 1977, concerning the captioned case. It is my understanding that you represent the interests of Monsanto Company in this case and have discussed the matter with Attorney John Moomaw, Bloomfield, Indiana, who represents the Bloomfield Silo Company.

Pursuant to our conversation, the basis of my client's claim for damages is their estimated loss to date as follows:

August and September, 1976; drop of approximately 420 pounds plus, per day, of milk production times 61 days at $9.55 per hundred weight, equals $2,446.71.

October, 1976; approximate loss of 850 pounds per day times 30 days, times $10.07 per hundred weight equals $2,567.85.

November, 1976; approximate loss of 850 pounds per day times 30 days, times $10.07 per hundred weight equals $2,567.85.

December, 1976; approximate loss of 850 pounds per day times 30 days, times $10.07 per hundred weight equals $2,567.85.

In addition to the milk production loss, fourteen (14) cows were culled from the milk herd through October, 1976, at an approximate loss of $185.87 per cow at the time of their sale, for an approximate loss of $2,602.18. Fifteen (15) additional cows were culled during December, 1976, at an approximate minimum loss of $185.87 per cow, for a total of $2,788.05.

DSW 349259

The value of the silo, based upon insured value, was $10,000.00, although we anticipate that actual cash value may be substantially higher.

The material stored in the silo consisted of 150 to 175 tons of oatlage, valued at between $17.50 to $22.50 per ton. 150 Tons of Oatlage at $17.50 per ton would total $2,550.00.

It is anticipated that the unloading, burial and destruction of the silage and silo may cost as much as $2,000.00.

Based upon the foregoing, we believe that the loss incurred to date is in excess of $30,000.00 and will continue to enlarge until milk stabilization has been achieved and the herd re-established at its original size.

I have enclosed notices from the Purdue University Animal Disease & Diagnostic Laboratories and the Indiana State Board of Health, which were originally sent to our client and which indicate the various levels of PCB contamination in the silage and in the milk produced by the Barclay herd. I have also enclosed a copy of a release issued by the Indiana State Board of Health, which indicates that the recoating of the interior surfaces of contaminated silos may well be ineffective with recurrent problems on a periodic basis.

As to verification of the loss in milk production and the sale of cattle which became unproductive following the overnight change in feed, we will, of course, supply you with information verifying these figures, should you so desire.

After you have had an opportunity to review this material, please contact me so that we can determine the profitability of pursuing the matter further at this time.

Very truly yours,

WILSON, TABOR & HOLLAND

By Richard L. Norris

RLN/nj

Enclosures

cc: Attorney John Moomaw
Joseph J. Barclay

DSW 349260