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Court Studying Processor Suit

BY KEN IRONS
Record Staff Writer

U.S. District Court Judge Eugene A. Gordon indicated today he will take under consideration a motion to remand to state court a $68 million suit brought by one of the state's largest poultry processing firms.

Holly Farms Poultry Industries Inc. of Wilkes County alleges that it had to destroy thousands of chickens and eggs due to contamination by a chemical potentially toxic to humans.

Principal defendant is Monsanto Corp. It is being sued in the action for $56 million.

At a hearing this morning in federal court here, Judge Gordon said he has not yet resolved the jurisdictional matter. Holly Farms has asked that it be returned to Wilkes County Superior Court where it was initiated.

Judge Gordon, however, did suggest that counsel agree upon a time within the next 10 days for an inspection of the chicken feed plant in Wilmington where the alleged leakage occurred.

Holly Farms claims the chickens and eggs were contaminated by liquid polychlorinated biphenyl (PCP) which leaked into fish meal that was being processed for chicken feed.

The PCP was being used as a heat exchange fluid in a closed-system pasteurizing device. The plaintiff charged Monsanto continued to sell the chemical to the feed firm, although it knew the pasteurizing system was "a closed device."

Today, Greensboro attorney Welch Jordan, representing Holly Farms, said the firm's business has been imparied by publicity surrounding the case.

By filing in state court, he said the plaintiff had hoped to "keep the case under wraps," but added it was "picked up by the press."

Jordan said that prior to filing the suit, attorneys for the plaintiff and defendants discussed a possible out-of-court settlement, but failed to reach an agreement.

He said best interests would be served by hearing the case in Wilkes County Superior Court. Judge Gordon said he might schedule arguments next week on the motion to remand.

Other firms named as defendants are East Coast Terminals Inc., owners of facilities at the Port of Wilmington; South Pacific Protein Assoc. Inc.; which leased a portion of the warehouse in which the pasteurizing device was installed; and Wilbur-Ellis Co. and International Proteins Corp.

The latter is allegedly the seller of the contaminated fish meal.

Holly Farms alleges the leakage at the Wilmington plant occurred in "late winter or early spring" of 1971.

Three of the defendants have filed answers denying the allegations.