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SYNGENTA GMO LAWSUIT

In November 2013, China blocked U.S. corn imports if the corn had traces of the Syngenta GMO corn varieties Vinterra and Duracade. On December 17, 2014, China lifted the Vinterra ban but not the ban on Duracade corn. Corn exporters and corn growers have sued Syngenta and law firms are trying to sign Nebraska corn growers up in class action or mass tort lawsuits. In September 2014, Cargill filed its own lawsuit, arguing that Syngenta caused more than \$90 million in losses to Cargill over the rejected corn. Trans Coastal Supply Co., which exports feed for livestock, also sued Syngenta, blaming the company for \$41 million in losses over the GMO seed.

The basis of this personal column is to make an awareness of the issue, especially in light of recent mailings from law firms to Nebraska corn producers. Any mention of a particular law firm is not an endorsement. Much of my content is from Dave Aiken, UNL Ag Law specialist. Dave indicated there will probably be some new agricultural trade law as a result of the litigation process.

When China blocked corn imports with traces of the non-approved GMO corn, corn traders and farmers suing Syngenta contend that the ban resulted in a drop of over 80% in US corn exports to China and an 11 cent/bushel price drop. Person, DeWald and Deaver, a law firm located in Holdrege, NE, says initial research indicates potential recovery for a Nebraska farmer could be 22 cents to more than \$1.00 per bushel for 2013, 2014 and potentially even 2015.

Syngenta will dispute those numbers in court vigorously and is arguing grounds for dismissal in Court saying the lawsuit lacks merit. They also have publicly stated they are committed to helping farmers in the future by delivering safe and effective corn seed products and will not pursue counterclaims.

In one of the producer contracts that I read, WATTS GUERRA, LLP in Texas has filed over 14,750 farmer claims. Rather than a class action lawsuit they are filing mass tort claims on the behalf of famers who planted corn in 2013, 2014 and 2015 regardless of seed variety. It gets complicated because each state has its own statute of limitations and it is unclear at this time when the time clock has started. It's important for farmers to realize there is no settlement right now, the actions being taken are on the "front end", and there is time to study the issue or to sign or not sign a contract.

Now that attorneys are offering to do the lawsuit on a contingent fee basis (60-40) suggests that they are confident according to Dave Aiken. Former Saline County 4-H'er, Katie Spohn in the Jon Bruning law firm in Lincoln, said their fee is 33 1/3 and the client 66 1/3. In the event there is no recovery, the client owes the attorney nothing. I like the fact of local or Nebraska choice when signing a contract with a lawyer or law firm.

Did Syngenta do wrong in commercializing Vinterra and Duracade corn? Was China's reaction of zero tolerance known or expected? Trade reductions impact corn price and the National Grain and Feed Association estimates that U.S. farmers will lose up to \$2.9 billion due to trade disruptions linked to the rejections and other issues.



With the StarLink lawsuit years ago, some farmers locally participated after a class action settlement was announced. This one is different because of the “front end” nature and the mass tort claims. If you do sign a contract, read it carefully that no money is being required from you and the cost share amount is clearly stated. Ask about what paperwork may be required on your end. Specific questions to deadlines and other questions that you have need to come from your attorney representing your claim.

I have talked to farmers that say this is really wrong and others that are signing. It’s a personal decision for everyone. Also, don’t be surprised that a lot of the settlement will be eaten up with expenses.

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