



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

March 1, 1984

Arbitration Case Number 1602

Plaintiff: Benson-Quinn Company, Minneapolis, Minnesota
Defendant: Louis Dreyfus Corporation, Stamford, Connecticut

Cross-Plaintiff: Louis Dreyfus Corporation, Stamford, Connecticut
Cross-Defendant: Columbia Grain Inc., Portland, Oregon

Cross-Plaintiff: Columbia Grain Inc., Portland, Oregon
Cross-Defendant: Montana Merchandising Inc., Great Falls, Montana

Cross-Plaintiff: Montana Merchandising Inc., Great Falls, Montana
Cross-Defendant: Cargill Inc., Portland, Oregon

Statement of the Case

The plaintiffs and defendants were involved in a string trade involving a trainload of U.S. No. 1 Dark Northern Spring wheat, 14 percent protein with various premium and discount scales. All contracts called for destination grades. The ultimate receiver of the train, Cargill Inc. at Portland, Ore., called for a federal appeal on the original destination grades.

Evidence submitted showed that the federal appeal protein determinations were substantially lower than those inspections rendered at the original destination. Cargill mailed the appeal inspections to the original shipper, Benson-Quinn Co., Underwood, N.D., and made final settlement basis the federal appeal grades. Benson-Quinn claimed that it was denied the right for a ruling through the Federal Grain Inspection Service Board of Appeals by not being notified of the grades as stipulated under Grain Trade Rule 22, and that settlement instead should be based on the first inspection. The appeal inspections were dated five to seven days after the original sampling date and the samples no longer were available when the results were made known to Benson-Quinn. Benson-Quinn and the other plaintiffs filed claims against the defendants for the amount of monetary loss, based upon their contracts, incurred by the settlements going through the string basis federal appeal grades instead of original destination grades.

The Decision

The arbitration committee decided in favor of Benson-Quinn. The Grain Trade Rules require that the export unload elevator notify the shipper of the unload weights and grades within two days by telephone or telex. Even though the rules are silent as to the matter of appeal grades and weights, it is assumed the appeal grades fall under the same rule. This allows the shipper to call for Board appeal before the sample is dumped. Lack of notification by Cargill precluded the right of the shipper, or any other interested party, to a Board appeal. Therefore, settlement on the cars in question should be made on the basis of the original unload inspection.

Awards basis the various premium discount scales are to be as follows:

Cargill pays Montana Merchandising Inc.....	\$4,906.15
Montana pays Columbia Grain Inc.....	5,973.34
Columbia Grain Inc. pays Louis Dreyfus Corp.....	5,272.24
Louis Dreyfus Corp. pays to Benson-Quinn Co.....	5,935.77

Interest is to be paid on the above amounts by all parties at the 11 percent prime rate from the date of unload until the date the arbitration committee's decision was rendered.

Submitted with the consent and approval of the arbitration committee, whose names are listed below.

THEODORE D. METZ, Chairman
Bunge Corporation
Minneapolis, Minn.

W. EDWARD BALSIGER
Harvest States Cooperatives
Portland, Ore.

THOMAS J. SCHNAPP
Checkerboard Grain Co.
Kansas City, Mo.