FARM SHOW

Smörgåsbord

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Wisconsin Farmer Wins Lawsuit Against Harvestore

A Wisconsin dairy farmer and his wife have won the latest round in the continuing legal battle between a handful of disgruntled Harvestore® silo owners and A.O. Smith Harvestore Products of DeKalb, Ill.

Barbara and John Chitwood, of Blue River, sued Harvestore in 1985, six years after they bought a 20 by 80 ft. forage-type Harvestore which, they claimed, never did work as represented by Harvestore salesmen, and in Harvestore advertisements, literature and brochures. Their case went to trial last July 5 and, on Aug. 2, the Chitwoods were awarded a $425,000 judgement by a 12-member jury which found A.O. Smith Harvestore Products, a wholly-owned subsidiary of A.O. Smith Corp., of Milwaukee, Wis., guilty of "fraud and intentional misrepresentation."

Shortly before the trial began, the Chitwoods reached an undisclosed out-of-court settlement with Dodgeland Harvestore, the dealership that sold them their Harvestore System.

"The entire concept of the system is based on the company's claim that, because of its alleged revolutionary and patented design, air is prevented from contacting the feed stored inside a glass-lined Harvestore," explained lawyers Will Mahler and Charles Bird, both of Rochester, Minn., who, along with Jim Kolby, of La Crosse, Wis., successfully pleaded the Chitwoods' case. "We were able to convince the jury that this claim is false and fraudulent—that Harvestore and A.O. Smith's top executives have known for 20 years or more that substantial amounts of outside air are literally pumped into a Harvestore silo, and through the column of feed contained inside, every time the bottom unloader is activated. Air is drawn in from both the bottom unloading door and through the pressure relief valve on top of the structure. Instead of being air-tight, oxygen-free or oxygen-limiting, as claimed, Harvestore structures are actually oxygen-enhancing. And, because of basic design defects, there's no way a Harvestore silo can be repaired or modified so as to allow it to function as claimed by the manufacturer.

"The Chitwoods were promised that, with the Harvestore System, there would be no feed spoilage since feed would be preserved like fruit in a sealed jar. Because there would be no loss of nutrients, they wouldn't have to feed any protein supplement. And, because of improved feed quality, their cows would produce more milk, allowing them to pay for their Harvestore in a short time. Nothing happened as promised. They had serious feed spoilage problems right from the start. However, Harvestore representatives strung them along, leading them to believe their problems were due to poor management and not the system."

Mahler says a "secret and confidential" internal memo, written in 1980 by a Harvestore engineer and sent to Havestore and A.O. Smith executives, helped convince the jury of what he calls "Harvestore's deliberate and fraudulent coverup."

The secret memo warned top executives that "there are great information gaps in our knowledge of not only structure breathing but also of other sources of oxygen on the performance of our product. We in R&D do not have any good information on what percent of operating Harvestore systems might be judged unsatisfactory with respect to oxygen exposure.... How many customer complaints about moldy feed per 1000 Harvestore structures is acceptable? If there are too many complaints about moldy feed at the present, it is evidence that improved oxygen exclusion is needed."

Out of some 40,000 farmers who collectively own about 70,000 Havestore silos, only a few hundred have taken legal action. If the product has serious design defects, as claimed in the Chitwood case, how come so relatively few Harvestore silo owners appear to be having problems?

"Many lawsuits have been settled out of court. These the public rarely hears about," answers Mahler. "In many instances, disgruntled owners simply don't have the money to fight back. Even though the lawyer gets paid only if he wins the case, the farmer still may have to fork out a fair sum of money for expert witnesses, depositions and other costs to bring his case to court."

Mahler and other lawyers representing Harvestore owners have pointed out that generally, dairy farmers are more vulnerable than beef producers because they have fewer head and can't feed out fast enough to stay ahead of spoilage. Several court cases have involved hog producers and Harvestore grain silos.

Meanwhile, Harvestore officials, who have said they will appeal the Chitwood verdict, are moving full speed ahead on "restructuring" the A.O. Smith Harvestore Products division. To mark the 40th anniversary since introduction of the Harvestore System, and to document "its success and acceptance," Harvestore's public relations firm — David Brown Inc. — recently conducted a search for the oldest Harvestore silo still being used in a livestock operation. The search turned up 4 units built in 1949, the year Harvestores were introduced, that are still in regular use. Winner of the contest was dairy farmer Norman Clausen, of Kenosha, Wis. He's the third owner of the farm on which two 14 by 40 structures, ordered by Paul Langold, were erected in May and June, 1949.

Today, there are about 50 Harvestore dealers, compared to a peak of 91 ten years ago. Much of their current business involves selling used or pre-owned Harvestore silos which are sold with "rebuild kits" (new bolts, seals and air bags). The company anticipates that the market for new structures will open up in 3 or 4 years when the supply of pre-owned structures runs out. Meanwhile, the company aims to expand its non-agricultural market of glass-lined water storage tanks, which account for about a third of current annual sales.

Baling Wire Shortage

We may have to quit the farming business. No, it's not because of economic conditions. We're almost out of used baling wire, that's why!

Now that they're putting up hay in big round bales tied with plastic twine, the once plentiful strands of wire are going the way of the whiffletree and whip socket at our place. I'm reduced to saving bits and dabs and actually hoarding the longer pieces. I haven't yet resorted to putting it in our safe deposit box or taking it to bed with me at night, but it's high on my endangered species list and I'm protecting it accordingly.

Maybe we should have a National Baling Wire Preservation Society. The situation still isn't as serious as the countdown on the whooping crane and the black-footed ferret, but it isn't too early to take action.

After all, when it's gone, how will we shut gates, repair fences, reinforce trailer hitches, bundle old magazines, tie down tarps, replace broken chain links, make bucket handles, mend screen doors, etc? Manure spreaders and endgate seeders seem to work better when trussed up with mechanical band aids. For automotive maintenance, baling wire is a substitute without peer: for hooking up sagging mufflers, latching faulty trunk doors and fastening flapping license plates.

Unfortunately, though, like so many other useful things, baling wire has a few drawbacks, too. It tends to rust and break when you need it most. You stumble over it in the dark a lot.

Baling wire also gets lost easily in high grass. However, it's also easy to find — wrapped around the shaft of your power mower.

When baling wire winds itself around power takeoffs or other moving machine parts, it generates unique farm words like %#^*@$+ and {*%x°%•!

Needless to say, I am very concerned about the growing shortage of that inexpensive and utilitarian commodity. I suppose if worse came to worst, I would buy a new roll of the stuff so I'd have it available when I needed it.

On the other hand, it doesn't seem quite right to use NEW baling wire for fixin'. As the song goes, baling wire —like love — is lovelier the second time around. **(Bob Karolevitz, Rt. 1, Box 134, Mission Hill, S. Dak. 57046).**

Fireflies Worth Money

Kids of all ages — from 4 to 94 -- are "cash cropping" fireflies for a St. Louis firm that pays a penny apiece for "little 'ol bugs of lightning."

"This year, we had about 500 members from 19 states in our Firefly Club," says Cathy, the "firefly lady" at Sigma Chemical. Sigma ships the lightning bugs to laboratories throughout the world who use the luminescent substances in their tail "lanterns" for everything from cancer and muscular dystrophy research to sewage treatment experiments.

Individual kids and adults, or groups and clubs looking for a possible fund-raising project, can get into "firefly farming" for a refundable investment of only $2.50. That's the deposit cost for a special-made aluminum container, with a built-in bug preservative, which Sigma supplies for collecting, storing and shipping up to 1,500 fireflies. You keep the can and collected bugs in the refrigerator, then mail in the can when it's full, or partially full. Sigma refunds the $2.50 can deposit when you mail it back. Sigma will also supply a bug-catching net for $2.50, which is also refunded if you mail the net back at the end of the season.

Cathy notes that the prime catching time (about 20 minutes) is at sunset during the months of June, July and August. "On a good night, you can catch upwards of 1,000 bugs."

To learn more about turning fireflies into money, contact: FARM SHOW Followup, Sigma Chemical Co., Box 145081, St. Louis, Mo. 63118 (ph 1 800 521-8956).

The Tate Family

You may have heard of the Tate family. They're in every organization.

There is Dic Tate who wants to run everything. Ro Tate is always trying to change things. Agi Tate stirs up trouble whenever possible with the help of Irri Tate who is always there to lend a hand every time a new idea is suggested.

Hesi Tate and Vegi Tate are there to say they can't possibly work but are more than willing to watch everybody else. Imi Tate just wants to copy other organizations and refuses to try anything new. Devas Tate loves to be interruptive and Poten Tate wants to be the big shot.

Thank goodness for Facili Tate, Cogi Tate and Medi Tate who always save the day and get everyone pulling together.

And our thanks to Judi Clemmens and Farmweek for sharing this little piece of wisdom for FARM SHOW readers to Contemp Plate.

"Horse Sense" Tips For Buying And Selling

A horse sale is made when the buyer and seller agree upon a price. Don't let the owner make you, the buyer, part of selling the horse by asking what you will pay for his horse. Always make him put a price on his own stock. You may be willing to pay $2,000 for the horse — and if you tell him that, he will sell it. But if you let him price it, he may be willing to take $1,500 for the animal— and you just saved $500.

Even when a seller places a price on the horse, assume that the figure he names represents the most he expects to get out of the horse. You may be able to bargain for less.

When buyer and seller don't agree, try the coin flip. If the man asks $1,500 and you are willing to pay $1,500 but would like to get the horse a little cheaper, just tell the owner you will "flip him" for $1,400 or $1,500. Get out a coin even if he isn't too anxious. Go ahead and flip while he is contemplating, then ask him to call it. Everyone has some sporting blood and most will call it. If this happens when you are selling a horse, always offer to toss the coin for $1,400 or $1,600, but not $1,400 or $1,500 because only one person can win. By using $1,400 or $1,600, the seller usually scares the buyer into taking the $1,500 because he surely doesn't want to end up paying more than the $1,500 he could buy the horse for.

(From the 343-page "Training for Western Horse and Rider" book by J'Wayne McArthur, ADVS Dept., Utah State Univ., Logan, UT 84322. Sells for $15.)