



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

July 30, 1982

ARBITRATION CASE NUMBER 1577

PLAINTIFF: Bunge Corporation, Mayersville, Mississippi

DEFENDANT: Andrew Washington, Grace, Mississippi

On July 16, 1980, Plaintiff Bunge purchased 8,000 bushels of number one yellow soybeans for September/October/November delivery to their Mayersville, Mississippi elevator from Defendant Andrew Washington. Defendant Washington failed to deliver, claiming impossibility of performance due to an act of God (drought). Having received the delivery of no soybeans against said contract, Plaintiff Bunge cancelled said contract on December 1, 1980 and claimed market difference of \$11,440.00 plus interest from December 1, 1980 to date, plus legal fees of \$453.75.

Defendant assured Plaintiff on two occasions during November of 1980 that he would deliver soybeans in fulfillment of his contract. Plaintiff ascertained that Defendant did, in fact, harvest soybeans (quantity unknown) by visiting Defendant's farm during November of 1980. Plaintiff showed that 88 percent of all soybeans contracted for during the fall of 1980 were delivered. Plaintiff further showed that they indeed have a policy of confirming in writing all contract cancellations, whether in part or whole, and that market difference is either paid or collected.

The committee found for Plaintiff Bunge and awarded the following:

Market difference	\$11,440.00
*Interest from 12/1/80	<u>3,128.26</u>
Total	\$14,568.26

*Interest was calculated basis a rate of 18.23%, which is the weighted average of the prime rate (Chase Manhattan, New York) from December 1, 1980 to date.

/s/Delmar J. Kloewer
Cargill, Inc.
Minneapolis, Minnesota

/s/Daniel Walski
Luckey Farmers Co-op
Woodville, Ohio

/s/W. S. Stuckey
Cooperative Elevator Co.
Greenwood, Mississippi