Monsanto agrees to Bayer's $57B offer

By DAVID MCHUGH
AP Business Writer

FRANKFURT, Germany (AP) — The U.S. seedmaker Monsanto agreed to a $57 billion buyout offer from Germany's Bayer in a deal that would create global agricultural and chemical giant.

The deal comes with record harvest driving crop prices to painfully low levels for farmers.

It was the third time in four months that Bayer returned with a richer offer to sell the acquisition to Monsanto, and hopefully, its shareholders.

Including debt, the deal is valued at $66 billion. If approved, Monsanto will continue to be based in St. Louis.

Bayer said Wednesday that it would pay Monsanto shareholders $128 per share — in cash. That represents a 44 percent premium over Monsanto's closing price on May 9, the day before a proposed deal was announced.

The deal must still get the nod from both Monsanto shareholders and regulators, who in the U.S. have recently rejected a pair of megadeals in the health sector.

Signaling its confidence that it would be able to push the deal through, Bayer as part of negotiations told Monsanto that it would pay a $2 billion break-up fee if it falls apart.

Bayer said the transaction brings together two different but complementary companies. Bayer makes a wide range of crop protection chemicals that kill weeds, bugs and fungus, while Monsanto is known for its seeds business and the weedkiller Glyphosate.

Bayer, based in Leverkusen, said the companies' combined agriculture business would keep its seeds business and North American business headquarters in St. Louis, where Monsanto is currently based.

County's $1.4B timber lawsuit survives state's motion to dismiss

By MATEUSZ PERKOWSKI
Capital Press

Capital Press File

Linn County, Ore., is suing the state over how it manages Oregon Forest Trust Lands. The suit, filed on behalf of 15 counties that donated timberland to the state, seeks $1.4 billion in lost revenues.

ALBANY, Ore. — A judge has denied the State of Oregon's motions to dismiss a lawsuit by Linn County that seeks $1.4 billion over state forest management practices.

Linn County Circuit Judge Daniel Murphy also said he's inclined to certify the case as a class action — which would include other counties in the litigation — though he's postponed ruling on that matter.

According to Linn County's lawsuit, filed earlier this year, insufficient logging on state-owned forestland has cost 15 counties more than $1.4 billion.

The complaint claims the counties turned over ownership of forestlands to the state in the early 20th century with the expectation that it would maximize timber revenues, but since 1998, forest managers have instead prioritized wildlife habitat, water quality and recreation values.

More than 650,000 acres were donated to the state by Benton, Clackamas, Clatsop, Columbia, Coos, Douglas, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Washington counties.

In his ruling, Murphy rejected arguments by the state's attorneys that he lacks jurisdiction over the case and that Linn County's pleadings were insufficient for the lawsuit to move forward.

According to the Sept. 6 ruling, the judge "could only dismiss this claim now if the court could find it impossible for the plaintiff to prove the claim and thereby prove that best grazing and forest management practices/greatest permanent value at the time the contract was entered into included the maximization of revenue."

Without "reciting in detail the court's reasoning," Murphy also held that he believed the lawsuit meets the requirements for a class action, but he agreed with Oregon's attorneys that ruling on the issue now would be premature.

If the lawsuit survives further motions, then it's "entirely appropriate and should go forward promptly" as a class action, he said.

During a hearing last month, Scott Kaplan, an attorney for the state, said the problems in managing the case as a class action would be "enormous."

The counties donated 183 separate parcels to the state, each of which contains different slopes, tree types, waterways and federally protected species, he said.

Determining how much timber could have been generated from each parcel would devolve into 183 mini-trials, he said.

"How can we decide if revenue has been maximized on a particular parcel unless you consider all of those issues?" Kaplan said.

Linn County is also an inadequate representative of the other counties for multiple reasons, he said.

The litigation costs are currently being paid for by timber groups and lumber companies — the Oregon Forest & Industries Council, Sustainable Forests Fund, Stimson Lumber and Hampton Tree Farms.

Linn County is simply lending its name to a lawsuit that actually represents private interests, the state's attorneys argue.

"It's not a public interest case. It's a case to benefit one particular group," Kaplan said.

Unlike the counties, which appreciate tourism and other benefits from uses besides logging, the timber interests funding the lawsuit primarily want to change the state's "greatest permanent value" rules for forest management to emphasize harvesting, he said.

Much of the alleged damages are for lost future timber revenues, which may force the state to change its logging policies, he said.

"That would directly challenge the interests of the other counties," Kaplan said.

The case also doesn't qualify as a class action because of the lack of "commonality" among the counties, which donated their land to Oregon during different times and under specific terms, he said.

Chris McCracken, an attorney for Linn County, rejected the argument there's a lack of commonality among the counties.

They all face the same issues, such as whether the state has violated its contract to maximize timber revenues, he said.

"We have common questions in droves," McCracken said.

The Oregon Department of Forestry does not manage each parcel individually but instead treats them according to regional forest plans, he said.

Deciding the counties' contractual rights collectively is more efficient than trying separate cases with potentially conflicting verdicts, he said.

McCracken also disputed that the lawsuit's funding mechanism should disqualify it as a class action.

The Davis Wright Tremaine law firm would be entitled to 15 percent of any financial award in the case.

Contingency fees aren't unusual in class action lawsuits, particularly since the counties are strapped for cash and could not afford such litigation on their own, McCracken said.

"There are no disabling conflicts between Linn County and the class members," he said.

It's irrelevant whether some counties prefer the forests to be managed for ecological or recreational benefits, McCracken said.

$39M plan aims to prevent spread of invasive species in Hawaii

HONOLULU (AP) — The state has proposed a $39 million biosecurity plan to be implemented over the next decade that seeks to bolster its fight against invasive species.

The plan unveiled at a news conference Sept. 14 outlines ways to combat invasive species in Hawaii and prevent new ones from reaching the islands. The state Department of Agriculture spent the last year creating the proposal with help from state, federal and county agencies, The Honolulu Star-Advertiser reported.

Much of the Hawaii Interagency Biosecurity Plan focuses on measures to ensure invasive species aren't brought to Hawaii from other parts of the world. The plan calls for new technology to help officials determine which shipments coming into the state are more likely to have invasive species and suggests the creation of new inspection facilities.

It also covers "pre-border" measures to reduce the likelihood of new species reaching Hawaii, border inspections and quarantines to detect new arrivals and "post-border" actions against the species that are already in the state.

Scott Enright, director of the agriculture department, said Hawaii is "at great risk for invasive species" because it imports between 80 percent and 90 percent of its goods.

Under the plan, the state Vector Control Branch would hire more workers to fill positions that have been lost to budget cuts. The current Hawaii Invasive Species Council would also be morphed into an Invasive Species Authority that would work to coordinate interagency efforts and address the matter with greater resources.

Ag producer optimism wanes, poll shows

By CAROL RYAN DUMAS
Capital Press

Farmer sentiment about the ag economy faltered in August, following a stretch of lower commodity prices and reports of bountiful row crops in the Midwest.

The Purdue University/CME Group Ag Economy Barometer — based on a monthly survey of 400 farmers and livestock producers across the U.S. — fell to 95 in August, down from 112 in July relative to a baseline average index of 100.

The 17-point drop from July to August was the largest one-month decline in the barometer since November.

Producer confidence was high after a run-up of row-crop commodity prices in June. But as harvest continues in many parts of the country, optimism is beginning to wane, said David Widmar, senior research associate with Purdue's Center for Commercial Agriculture.

Farmer sentiment in late spring and early summer was buoyed by a spring rally in key commodity prices, but near-ideal growing conditions for corn and soybeans this summer helped push crop prices down sharply.

Corn prices rallied close to $4.50 a bushel in June, a profitable level for growers in the Cornbelt, building producers' expectations. They settled back to about $3.50 to $3.75 in July, but producers were still optimistic for the future, Widmar said.

The June price spike was still fresh in their minds, and future expectation surged on where prices could go, he said.

"Although it was not at the price level it was before, the glass was half full. It could return to that and get close to profitable," he said.

But lower prices erased that memory and eroded optimism. Corn prices since July have run $3.00 to $3.25, he said.

"That's a long way from producers making a profit," he said.

July weather turned out to be favorable, especially for corn and soybeans, bringing a new reality of lower prices. Producers are now dealing with how long the low prices will last, he said.