

Lawsuit alleges glyphosate-cancer link

Popular herbicide faces onslaught of litigation

By **MATEUSZ PERKOWSKI**
Capital Press

A Washington man has filed a complaint claiming that Monsanto Co.'s glyphosate herbicides caused his cancer, joining a slew of similar lawsuits across the country.

William White of Clallam County, Wash., alleges that he developed non-Hodgkin's lymphoma from using the company's "Roundup" brand

of glyphosate.

The complaint, like others filed in multiple federal jurisdictions, argues that Monsanto misled consumers by claiming that glyphosate is biodegradable and practically non-toxic, despite studies linking the chemical to cancer.

Monsanto said the lawsuit's claims are "contrived" and "based on the erroneous conclusions of a French-based, non-governmental agency of the World Health Organization," referring to a controversial 2015 report from the International Agency for Research on Cancer.

"IARC and its findings have been thoroughly discredited and rejected by the rigorous scientific research of governmental authorities around the world," said Scott Partridge, Monsanto's vice president of global strategy, said in a statement to Capital Press.

Proving that glyphosate was actually responsible for causing the plaintiff's illness in court is going to be "pretty damn hard," said William Funk, a law professor at Lewis & Clark University who has studied torts, or wrongful acts resulting in legal liability.

Attorneys for the plaintiff would need rely on expert testimony from doctors and scientists to convince a jury that glyphosate caused the cancer, Funk said.

Glyphosate must be shown to be responsible for the illness by a "preponderance of the evidence," meaning there's more than a 50 percent chance that it was the culprit, he said.

Some legal claims against Monsanto may also be barred by federal law.

If a pesticide is approved under the Federal Insecticide Fungicide and Rodenticide Act, or FIFRA, then

tort lawsuits against those approved uses generally aren't allowed, said Freedom Smith, an attorney specializing in environmental and toxic tort litigation.

However, there is a "gray area" regarding certain state pesticide laws, she said.

State laws that impose additional requirements on pesticides but don't conflict with federal law could be used to pursue tort claims, she said.

"There could be instances where state law could be applied," Smith said.

West Coast hay growers look for market bottom

By **DAN WHEAT**
Capital Press

ELLENSBURG, Wash. — The West Coast hay market has been down for two years, and some producers say the bottom has been reached while others think prices may still go lower.

Excess inventory of 2015 feeder hay has been selling as low as \$55 per ton and supreme alfalfa for dairies as low as \$110 per ton, according to one Western Washington dairyman who has become his own hay producer. He asked that his name not be used because he doesn't want to be blamed for driving prices down.

Dairies in Enumclaw and Chehalis that usually buy lots of Eastern Washington hay can no longer afford it because of low milk prices, he said. They are increasing their hay production, he said.

Labor disputes and work slowdowns at West Coast seaports from the fall of 2014 to the spring of 2015 caused hay exporters to lose overseas markets, piled up inventory and disrupted the domestic market.

Supreme and premium alfalfa reached \$300 and \$370 per ton in California in 2014, driven by a hay shortage before the port slowdown. Feeder grade was \$220 and \$240.

By the end of 2015, supreme and premium alfalfa was \$180 per ton and feeder hay was under \$150.

Now supreme alfalfa is \$185 and feeder hay is \$130, according to USDA.

However, growers surveyed by USDA often try to keep prices up and true averages are closer to \$110 to \$125 for supreme and \$60 to \$80 for feeder hay, said the Western Washington dairyman.

"It's a false market right now. Exporters are trying to hold it up. The day of the \$10,000 load of hay to the domestic market is gone," he



Dan Wheat/Capital Press

With a glut of hay on the market the last few seasons, prices have fallen. Some growers say prices may have found bottom.

said, predicting prices will fall even lower.

But Shawn Clausen, a Warden hay grower and board member of the Washington Hay Grower Association, disagreed and said he thinks the market has bottomed.

Prices are low but have been stable through the summer and while there's still a surplus of mediocre to feeder hay, there's no surplus of supreme dairy and export-quality hay, Clausen said.

Feeder hay prices and commodity markets are keeping supreme alfalfa prices below \$185 per ton but as more of the 2015 crop cleans out and with less hay being planted, volumes should drop and prices should improve next spring, he said.

Growers and exporters have taken losses on the 2015 crop that wasn't moving a year ago because of overproduction and the backlog from the port slowdown, he said. The 2016 crop is average to plus in yield but quality has been "real challenging because of high humidity, smoke or untimely rains," he said.

"My goal this year is to break even. If we can do that on the whole farm with corn and alfalfa, I'll call it a suc-

cess," Clausen said.

Ben Schaapman, a Quincy grower, said markets are "really slow," that his tonnage is good, quality is not and his sales will be a "long battle."

"I'm starting to think the dairymen are feeding rocks and coal and grass," he said.

Don Schilling, president of Wesco International, an Ellensburg hay exporter, said dairymen want to think prices will go down and growers want to think they've bottomed.

"We haven't hit bottom yet. When dairymen start to buy, that will turn it," Schilling said.

There's no shortage of any grade and 'for sale' signs on hay stacks in the Columbia Basin indicate oversupply, he said.

"When dairy guys are sitting on their hands and exporters are conservative, then there is excess hay in the basin," he said.

"It feels like we have hit bottom on Timothy and nice export grade alfalfa. It's hard to tell on feeder hay as there are plenty of supplies available," said Mark T. Anderson, president of Anderson Hay & Grain Co., another Ellensburg exporter.

"For sale" signs on stacks are probably mostly feeder hay, he said.



Don Jenkins/Capital Press

Cows gather under cover June 14 at a Whatcom County dairy. The Washington Department of Ecology said Thursday it will re-examine how much money new manure-management rules will cost dairies, responding to complaints that it has vastly understated the financial burden on farms.

Ecology to review how much rules to cost Washington dairies

Farmers: Agency estimate way off

By **DON JENKINS**
Capital Press

The Washington Department of Ecology said Sept. 8 it will re-examine how much money new manure-management rules will cost dairies, responding to complaints that it has vastly understated the financial burden on farms.

Ecology has estimated that complying with the new rules on storing and spreading manure will cost dairies a few thousands of dollars a year.

Farms groups and individual farmers, however, say actual costs could run into six-figures annually, potentially bankrupting some dairies.

Ecology's estimate has given the public the impression that producers are crying wolf, Whatcom Family Farmers spokesman Gerald Baron said.

"Farmers look like they aren't being honest in their claims about being driven out of business," he said.

State agencies must assess the cost of new regulations and try to avoid or justify rules that financially stress businesses with fewer than 50 employees.

Although some large dairies have more than 50 workers, the average dairy in Washington has about eight employees,

according to Ecology.

An Ecology spokeswoman said the agency will consider comments from farm groups and producers and release an updated economic impact statement when it finalizes the rules, expected to be by the end of the year.

Baron said he hoped Ecology will reconsider and circulate a revised economic impact statement before then to give the public a more accurate assessment. "To issue that with a final permit is simply not acceptable," he said.

Washington State Dairy Federation policy director Jay Gordon said he hopes that re-evaluating the costs will lead to internal discussions within Ecology and changes in the proposal.

"We're just going to have to trust they get this one right. I think they heard loud and clear they messed up on this," he said.

For more than a year, Ecology has worked on a proposal to require most dairies obtain a concentrated animal feeding operation permit.

The permit would introduce new limits on spreading manure. Ecology estimated complying with a permit would cost a dairy between \$11,000 and \$25,000 spread over five years. In a nod to the cost, Ecology opted to exempt from the rules about 100 small

dairies, those with fewer than 200 cows.

For the state's other 300 dairies, however, Ecology's estimate didn't include some costs.

The Washington Farm Bureau said the analysis was so far off the mark that it was "legally inadequate."

"We're not saying we're going to court. We're just saying that we're concerned about the impact of the permit on dairies in the state and the lack of a hard look at the costs," said Evan Sheffels, the Farm Bureau's associate director of governmental relations.

The dairy federation said a prohibition on spreading manure within 100 feet of ditches would make large chunks of fields unproductive and sharply reduce the supply of live-stock feed.

In some cases, farmers would lose tens of thousands of dollars a year in crop production, according to the dairy federation.

The rules also would shorten the period when farmers could spread manure. Faced with restrictions on where and when to apply manure, farmers would have to expand lagoons or acquire more land, according to the federation.

In its economic analysis, Ecology said losses because of buffers would be too "site specific" to evaluate.

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