

CRAIG WEST, TROY WEST and  
W. B. FARMS, INC.

CIVIL DOCKET NO. 99-C-4984-A

VERSUS

27<sup>TH</sup> JUDICIAL DISTRICT COURT

G & H SEED CO. and RHONE-  
POULENC AG COMPANY, INC.

ST. LANDRY PARISH, LOUISIANA

SECOND AMENDED AND SUPPLEMENTAL PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Craig West, Troy West, W.B. Farms, Inc., John Kelly West, Chad West, and Terry Fontenot, who hereby wish to amend and supplement the Original Petition for Damages filed herein on December 3, 1999 and the First Amended, Supplemental and Restated Petition for Damages filed January 25, 2000, as follows:

I.

By supplementing, amending and restating Paragraph 1 of the First Amended, Supplemental and Restated Petition for Damages to read as follows:

1.

Original Plaintiffs, Craig West and Troy West, are persons of the full age of majority and domiciled in the Parish of Evangeline, State of Louisiana. Original Plaintiff, W.B. Farms, Inc., is a corporation organized under the laws of the State of Louisiana with its principal place of business in the Parish of Evangeline, State of Louisiana. Additional Plaintiffs named are John Kelly West, a person of the full age of majority and domiciled in the Parish of Evangeline; Chad West, a person of the full age of majority and domiciled in the Parish of Evangeline; Terry Fontenot, a person of full age of majority and domiciled in the Parish of Evangeline. Plaintiffs added herein are Don H. Alleman, a person of the full age of majority and domiciled in the Parish of Acadia; Quality Aquaculture, Inc., a corporation organized under the laws of the State of Louisiana with its principal place of business in the Parish of Acadia, State of Louisiana; Anthony J. Godeaux, a person of the full age of majority and domiciled in the Parish of Acadia; Quality Crawfish, L.L.C., a corporation organized under the laws of the State of Louisiana with its principal place of business in the Parish of Acadia, State of Louisiana; Jason J. Robin, a person of the full age of majority and domiciled in the Parish of Acadia; Crawfish Wholesalers, Inc., a corporation organized under the laws of the State of Louisiana with its principal place of business in the Parish of Acadia, State of Louisiana; Ben Gunniss, a person of the full age of majority and domiciled in the Parish of Acadia, d/b/a Gunniss Pond Management. Original and Plaintiffs added herein are Members of the Class, adequately represent the interests of the Plaintiff Class, and seek to be certified as Class Representatives of this Class.

II.

By adding paragraphs 11A, et seq. to follow paragraph 11 of the First Amended, Supplemental and Restated Petition for Damages to read as follows:

**FACTS RELEVANT TO PLAINTIFFS, DON H. ALLEMAN AND  
QUALITY AQUACULTURE, INC.**

11A

During the 1998 to 1999 crop year, Don H. Alleman owned and farmed crawfish under the corporate name of Quality Aquaculture, Inc.

11B

Don H. Alleman and Quality Aquaculture, Inc. sustained a monumental loss of more than 75,000 pounds of crawfish during that crop year as a direct result of tailwater containing Icon and/or any or all of its derivatives in the water or sediment flooding Don H. Alleman and Quality Aquaculture, Inc.'s crawfish acreage.

11C

Neither Don H. Alleman nor Quality Aquaculture, Inc. received any warning from anyone that Icon-coated rice seed or tailwater from acreage planted on or in any way treated with Icon-coated rice seed could harm crawfish. In truth and fact, Don H. Alleman was told by a representative of Rhone-Poulenc that Icon would not harm crawfish.

**FACTS RELEVANT TO PLAINTIFFS, DON H. ALLEMAN, ANTHONY J. GODEAUX,  
AND QUALITY CRAWFISH, L.L.C.**

11D

During the 1999 to 2000 crop year, Don H. Alleman and Anthony J. Godeaux were crawfish farming under the corporate name of Quality Crawfish, L.L.C.

11E

Don H. Alleman, Anthony J. Godeaux and Quality Crawfish, L.L.C. planted their crawfish crop in rice fields which had been treated with Icon-coated rice seed.

11F

As a direct result of farming crawfish in rice acreage planted or treated with Icon-coated rice seed, Don H. Alleman, Anthony J. Godeaux and Quality Crawfish, L.L.C.'s almost 800 acres produced virtually no crawfish.

11G

It is presently unknown if future crawfish crops will also be affected.

11H

In truth and fact, Anthony J. Godeaux and Don H. Alleman were told by a representative of Rhone-Poulenc that Icon was safe for crawfish.

**FACTS RELEVANT TO PLAINTIFFS, JASON J. ROBIN AND  
CRAWFISH WHOLESALERS, INC.**

11I

Jason J. Robin and Crawfish Wholesalers, Inc. crawfish farmed approximately 260 acres. During the 1999-2000 crop year, approximately 200 acres of this land were planted with Icon-coated rice seed and seeded with crawfish. The remaining 60 acres with crawfish received an overspray of aerial application of Icon-coated rice seed. Crawfish mortality was widespread on all of the acreage and virtually no crawfish have been harvested from the entire 260 acres.

11J

It is presently unknown if future crawfish crops will also be affected.

**FACTS RELEVANT TO PLAINTIFF, BEN GUNNISS,  
D/B/A GUNNISS POND MANAGEMENT**

11K

In the 1998-1999 crawfish season, Ben Gunniss, d/b/a Gunniss Pond Management farmed approximately 150 acres of crawfish which sustained high mortality as a direct result of tailwater containing Icon and/or its derivatives in the water or sediment flooding his ponds.

11L

In the 1999-2000 crawfish season, Ben Gunniss, d/b/a Gunniss Pond Management farmed approximately 278 acres of crawfish in fields planted with Icon-coated rice seed. Crawfish mortality was widespread and virtually no crawfish have been harvested from the entire 278 acres.

11M

It is presently unknown if future crawfish crops will also be affected.

III.

By amending, supplementing and restating paragraph 15 of the First Amended, Supplemental and Restated Petition for Damages to read as follows:

This action is brought as a class action under Article 591 et seq. of the Louisiana Code of Civil Procedure. Plaintiffs bring this class action to secure redress on behalf of all persons similarly situated to them who have suffered damage as a consequence of the actions of the Defendant Class and Rhone. Original and Plaintiffs named herein bring this action individually, and on behalf of all persons similarly situated, and seek certification of the following Class against a Defendant Class of seed distributors and Rhone:

1. All persons or entities who from January 1999 purchased ICON-coated rice seed for planting in rice fields in the State of Louisiana AND who farmed crawfish or participated in a sharecropping arrangement for the farming of crawfish on fields in the State of Louisiana which received or were treated with ICON-coated rice seed; and
2. All persons or entities who from January 1999 farmed crawfish or participated in a sharecropping arrangement for the farming of crawfish on fields in the State of Louisiana which received or were treated with ICON-coated rice seed; and
3. All persons or entities who from January 1999 farmed crawfish or participated in a sharecropping arrangement for the farming of crawfish on fields in the State of Louisiana which received sediment and/or water containing ICON or its derivatives from fields which received or were treated with ICON-coated rice seed.

#### IV.

By amending and supplementing Paragraph 16 of the First Amended, Supplemental and Restated Petition for Damages to read as follows:

#### 16.

The actions of named seed distributor Defendants are typical of the actions of other seed distributors in the State of Louisiana who sold Icon-coated rice seed to Members of the Plaintiff Class. Plaintiffs seek certification of the following Defendant Class:

All rice seed distributors/sellers in the State of Louisiana who since January 1, 1999 coated rice seed with Icon and sold the treated seed for use in rice fields or rice/crawfish fields.

V.

By adding additional common questions of law and fact to Paragraph 21 of the First Amended, Supplemental and Restated Petition for Damages, as follows:

- x. Whether tailwater from Icon-coated rice seed kills crawfish;
- y. Whether derivatives or metabolites of Icon kill crawfish;
- z. The level of toxicity of Icon and any Icon derivatives or metabolites to crawfish; and
- aa. How long Icon and/or any of its derivatives or metabolites will affect the crawfish crops of the Plaintiffs.

WHEREFORE, Plaintiffs pray that the Court allow the filing of this Second Amended and Supplemental Petition and that the specifically named Defendants be duly cited to appear and answer this Second Amended and Supplemental Petition and that after due proceedings had there be judgment herein in favor of the Plaintiff Class and in favor of Craig West, Troy West, W.B. Farms, Inc., Don H. Alleman, Quality Aquaculture, Inc., Anthony J. Godeaux, Quality Crawfish, L.L.C., Jason J. Robin, Crawfish Wholesalers, Inc., and Ben Gunniss, d/b/a Gunniss Pond Management, individually and as representatives of a Class of all persons similarly situated, and against all Defendants, G & H Seed Company, Crowley Grain Drier, Inc., Delhi Seed Co., Inc., Nolan J. Guillot, Inc., and Terral Seed, Inc., individually and as representatives of Class of Defendants similarly situated, and Rhone-Poulenc AG Company, Inc., jointly, severally and in solido. Plaintiffs further pray for the following:

- a. That at a date and time to be set by this Honorable Court, the Court, after hearing, certify this case as a class action with Plaintiffs representing the interests of the Plaintiff Class and named Defendants, representing the interests of the Defendant Class;
- b. That Plaintiffs be awarded all damages incurred as a consequence of the actions of Defendants, together with legal interest thereon from either the date the obligations became due or the date of judicial demand, whichever is earlier;
- c. That the Court award a reasonable sum for attorneys fees, as found by the trier of fact, with additional sums for the services of counsel in the event of subsequent appeal;

- d. That the Court award post-judgment interest on the judgment at the rate provided by law from the date of judgment until paid;
- e. That the Court award all costs of these proceedings, including notice and class counsel fees; and
- f. Such other and further relief which Plaintiffs and the Members of the Plaintiff Class may be justly entitled.

Respectfully submitted,

Patrick C. Morrow (#9748)  
James P. Ryan (#11560)  
*Morrow, Morrow, Ryan & Bassett*  
Post Office Drawer 7090  
Opelousas, LA 70571  
337-948-4483

Vance R. Andrus (#2484)  
Gano Lemoine (#8305)  
*Andrus, Boudreaux, Lemoine & Tonore*  
416 West Main Street  
Lafayette, LA 70501  
318-233-3075

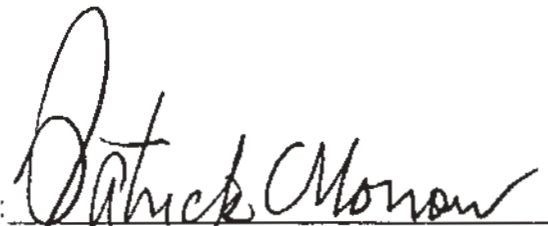
Dawn M. Barrios (#2821)  
Bruce S. Kingsdorf (#7403)  
*Barrios, Kingsdorf & Casteix, L.L.P.*  
701 Poydras Street, Suite 3650  
New Orleans, LA 70139-3650  
504-524-3300

Matt Lundy (#18988)  
Hunter Lundy (#8398)  
*Lundy & Davis*  
P. O. Box 3010  
Lake Charles, LA 70602-3010  
318-439-0707

Richard Arsenault (#38041)  
*Neblett, Beard & Arsenault*  
P. O. Box 1190  
Alexandria, LA 71309-1190  
318-487-9874

Of Counsel:  
Elizabeth J. Cabraser, Esq.  
Melanie Piech, Esq.  
Lori Andrus, Esq.  
*Lieff, Cabraser, Heimann & Bernstein*  
Embarcadero Center West  
275 Battery Street, 30<sup>th</sup> Floor  
San Francisco, CA 94111  
415-956-1000

BY:



PATRICK C. MORROW  
Class Counsel for Plaintiffs

CRAIG WEST, TROY WEST and  
W. B. FARMS, INC.

CIVIL DOCKET NO. 99-C-4984-A

VERSUS

27<sup>TH</sup> JUDICIAL DISTRICT COURT

G & H SEED CO. and RHONE-  
POULENC AG COMPANY, INC.

ST. LANDRY PARISH, LOUISIANA

ORDER

Considering the foregoing Second Amended and Supplemental Petition for Damages;

IT IS ORDERED that the above Second Amended and Supplemental Petition for Damages be filed herein, relating back to the filing of the original petition, December 3, 1999.

OPELOUSAS, LOUISIANA, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
JUDGE

PLEASE SERVE ORIGINAL AND 1<sup>ST</sup> AMENDED, SUPPLEMENTAL AND RESTATED  
AND 2<sup>ND</sup> AMENDED & SUPPLEMENTAL PETITIONS:

Rhone-Poulenc:

Robert E. Dille, Esq.  
*Kean, Miller, Hawthorne, D'Armond,  
McCowan and Jarman, L.L.P.*  
One American Place, 22<sup>nd</sup> Floor  
Baton Rouge, LA 70821

G & H Seed Co./Crowley Grain Drier, Inc.:

Arthur W. Landry, Esq.  
*Plauché Maselli, Landry  
& Parkerson, L.L.P.*  
201 St. Charles Avenue, Suite 4240  
New Orleans, LA 70170-4240

Homer Ed Barousse, Esq.

P. O. Box 1305  
Crowley, LA 70527-1305

Kenneth O. Privat, Esq.

P. O. Drawer 688  
Crowley, LA 70527-0688

Nolan Guillot, Inc.:

Peter Caviness, Esq.  
505 S. Court Street  
Opelousas, LA 70571

Terral Seed, Inc.:

Donald R. Smith, Esq.  
7576 Goodwood Blvd.  
Baton Rouge, LA 70806

F:\DATA\WP51\MAG\Icon Genera\2nd Supplemental Petition.wpd