



NATIONAL GRAIN AND FEED ASSOCIATION

# Arbitration Decisions

November 3, 1988

## Arbitration Case Number 1646

**Plaintiff:** AFEC Inc., Houston, Texas  
**Defendant:** Pacific Molasses Co., Westwego, La.

### Statement of the Case

On Oct. 2, 1986, AFEC Inc. made a sale with the following contract terms: "1820 st, 5 percent more or less, sellers option, 60 percent corn gluten meal F.O.B. one safe gulf port" to Pacific Molasses Co. J.W. Nutt Co. served as the broker. The sales confirmation for AFEC Inc. concerning demurrage/dispatch stated "max load time 2 days, SS HEX, Dem/Dis 4000/2000."

Pacific Molasses Co. did not send a confirmation. Ultimately, the vessel, Zim Houston, loaded and earned \$4,000 in dispatch, which AFEC Inc. paid to Archer Daniels Midland Co. under the same terms as it sold to Pacific Molasses Co. The invoice for dispatch was refused by Pacific Molasses Co. because of a delay in billing. AFEC's contract clearly stated freetime to load and demurrage/dispatch terms. The broker's contract inadvertently omitted the number of days to load the vessel.

### The Decision

The arbitration panel, after reviewing all evidence submitted in this case, arrived at the following findings:

- AFEC Inc. sent a contract to Pacific Molasses Co. that spelled out all the terms. Although abbreviated,

anyone familiar with trade terms could understand the meaning.

- Pacific Molasses Co. neither sent a contract, nor challenged the terms of the AFEC Inc. confirmation.
- Demurrage/dispatch invoices normally follow loading by weeks or months, as does final settlement on other grain contracts.

It was the decision of the arbitration panel that AFEC Inc. is owed \$4,000 for two days of dispatch, plus interest at the prime rate from April 29, 1987 to Feb. 1, 1988.

Submitted with the consent and approval of the arbitration panel, whose names are listed below.

**Patrick M. Harmon, chairman**  
Cargill Inc.  
Chattanooga, Tenn.

**W.J. Schmidt Jr.**  
Bunge Corp.  
St. Louis, Mo.

**J.W. Keistler**  
Twomey Co.  
Smithshire, Ill.