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## BASF to pay \$62 million fraud judgment to farmers

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**MINNEAPOLIS** - BASF Corp. will pay a \$62 million judgment this week, finally resolving a class-action lawsuit that accused the chemical company of defrauding farmers through its marketing of herbicides, a company spokesman said Monday.

Farmers who bought Poast herbicide from 1992 to 1996 are eligible to share in the judgment. Douglas Nill, an attorney for the plaintiffs, estimated that several thousand farmers are eligible, and said he hopes the money can be distributed to them within the next six months.

The U.S. Supreme Court on Monday declined to consider Florham Park, N.J.-based BASF Corp.'s appeal of a decision in March by the Minnesota Supreme Court that reaffirmed the judgment, which was handed up by a Norman County jury in 2001, thus ending a long legal battle that included several appeals.

"While we are disappointed by the Supreme Court decision not to review the case further, we will abide by the judgment," BASF spokesman Mark Stephenson said.

BASF will pay the \$62 million into an account set up by the plaintiffs' lawyers by Friday, Stephenson said. Because the company already made provisions in its books, Monday's rulings will not affect BASF's earnings for the quarter, he added.

The lawsuit was filed in 1997 by 11 Minnesota, Montana and North Dakota farmers who accused BASF of deceitful marketing of its Poast and Poast Plus herbicides. The jury found that the herbicides were essentially the same thing, but that BASF charged more for Poast. BASF sold Poast Plus for soybeans, and Poast for sunflowers, sugarbeets, potatoes, vegetables and fruits.

"We are going to distribute every dime," Nill said.

Norman County District Judge Michael Kraker will approve a distribution plan to the eligible farmers who make claims. The distribution will be pro rata, so if only 25 percent of the eligible farmers make claims, they'll share all of the money available for distribution after payment of attorneys fees and other costs, Nill said.

Nill said he expects he'll ask the court to approve incentive awards of around \$100,000 to each of the 11 farmers who originally brought the suit, and for attorneys fees of around 40 percent, given the many years he worked on the case without pay.

### ON THE NET

Douglas Nill: <http://www.farmlaw.com>

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