

MONTANA TWELFTH JUDICIAL DISTRICT COURT
HILL COUNTY

GOODIAN & SON, INC. A MONTANA
CORPORATION, AND JAG FARMS, INC.,
A MONTANA CORPORATION, ,

Plaintiffs,

v.

CORTEVA, INC., CORTEVA
AGRISCIENCE, DOW AGROSCIENCES,
THE DOW CHEMICAL COMPANY,
DOWDUPONT, INC., and Doe
Defendants 1-20;

Defendants.

Cause No.: DV-21-020
Dept. No.: _____

COMPLAINT AND JURY DEMAND

Plaintiffs Goodian & Son, Inc. and JAG Farms, Inc., (collectively referred to as "Goodian"), by and through counsel undersigned, files this Complaint against Defendants Coreteva, Inc., Corteva Agriscience, Dow AgroSciences, The Dow Chemical Company, DowDuPont, Inc., and Doe Defendants, and alleges as

2. JAG Farms, Inc., (“JAG”), is a Montana Corporation with its principal place of business in Hill County, Montana.

3. Arron Goodian (“Arron”) is the sole owner and operator of JAG Farms, Inc. Arron resides in Hill County, Montana.

4. Edward Goodian (“Ed”) is the sole owner and operator of Goodian & Son, Inc. Edward resides in Hill County, Montana.

5. Corteva, Inc. (“Corteva”) is a foreign corporation registered to do, and doing business in, the state of Montana. Its principle place of business is 974 Centre Road, Wilmington, Delaware.

6. Corteva Agriscience (“CortevaAg”) was, at times relevant to this Complaint, a subsidiary or division of DowDuPont and is listed on the Montana Secretary of State website as an assumed business name that has been cancelled. According to Corteva’s website, Corteva Agriscience spun from DowDuPont, Inc. on June 1, 2019 becoming a standalone company. Corteva Agriscience LLC is registered to do, and doing business in the State of Montana. Its principle place of business is 9330 Zionsville Road, Indianapolis, IN 46268-1053.

7. DowDuPont, Inc. is the parent company of E.I. Du Pont De Nemours

Street, Wilmington, Delaware.

8. Upon information and belief, Dow AgroSciences, LLC was a wholly owned subsidiary of the Dow Chemical Company. It is not registered with the State of Montana, but is believed to be a foreign limited liability company with its principle place of business located at 9330 Zionsville Road, Indianapolis, IN.

9. The label for the OpenSky herbicide product at issue in this case (“Specimen Label”) lists “Dow”, “Dow AgroSciences”, and “The Dow Chemical Company” on it. *See OpenSky label Exhibit A.*

10. Doe Defendants are companies or persons who are currently unknown but who may have had some part in the development, design, marketing, manufacture or other events described in this Complaint.

11. The OpenSky herbicide was developed, designed, and manufactured prior to 2018.

12. Upon information and belief, the Dow Chemical Company merged into DowDuPont in April of 2019, the company’s parent, Dow Inc. was then separated into a public company via a corporate spin-off. The Dow AgroSciences business unit remained with DowDuPont and was spun off into Corteva Inc.

FACTS COMMON TO ALL CLAIMS

14. G&S owns agricultural land primarily used for farming winter wheat, spring wheat, peas, canola, and lentils.

15. JAG owns agricultural land primarily used for farming winter wheat, spring wheat, peas, canola, and lentils.

16. G&S and JAG are owned and operated by a father and son team, Edward Goodian and Arron Goodian.

17. Edward has been farming for forty years. Arron has been farming his entire life. Arron and Edward have ongoing discussions and collaborate on all aspects of their farming operations.

18. In approximately 2015, G&S and JAG made the decision to transition from farm cropping 50 percent and resting 50 percent to cropping 100 percent of their acres every year in a multiple crop rotation.

19. G&S and JAG followed their wheat crops with a pulse crop or an oilseed crop. In this case, the crops following the wheat crops were lentils and canola.

20. In 2018, JAG held a one-year lease on approximately 3040 acres of

named Brad Birch.

22. OpenSky is very expensive compared to alternatives, but it was reported to have good results when used on wheat.

23. OpenSky's label (Specimen Label) provides for a nine (9) month rotation interval for lentils and canola in Montana as follows:

Crop Rotation Intervals

The following rotational crops may be planted at the indicated interval following application of OpenSky.

Crop Rotation Intervals for All States Except Idaho, Oregon, and Washington

Superscripted numbers refer to Crop Specific Rotation Information.

Crop	Rotation Interval (Months) ¹
wheat, triticale	1
barley, field corn, grasses, millet, oats, popcorn, seed corn, sweet corn, grain sorghum	9
alfalfa, camelina, canola, chickpea, cotton, soybean, dry bean, pea (dry and succulent), flax, lentil, mustard, potato, safflower, sugar beet, sunflower	9
other crops not listed	12

Crop Specific Rotation Information

¹ Minimum number of months that must elapse before planting other crops after application of OpenSky

See Specimen Label, Exhibit A.

24. In some states other than Montana, the label specifies a necessary soil Ph and/or rainfall prior to planting crops after application as follows:

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