Livestock Sanitary Commissioner's Office, correspondence, 1926-1929

Section 8, Pages 211 - 240

This collection contains correspondence regarding indemnities for cattle killed by tuberculosis, concerns over the findings of veterinary inspection, discussion of an outbreak of rabies among Kansas dogs that affected cattle, complaints of veterinary treatments killing animals, and general discussion about livestock diseases. The correspondence is mostly between the Livestock Sanitary Commissioner and various livestock owners throughout Kansas.

Creator: Kansas. Livestock Sanitary Commission

Date: June 1926-September 1929

Callnumber: Livestock Sanitary Commissioner, Correspondence, 1926-1929

KSHS Identifier: DaRT ID: 310296

Item Identifier: 310296

www.kansasmemory.org/item/310296

March 22nd, 1926.

Dr. F. A. Imler, Inspector in Charge,
Virus-Serum Control,
Federal Building,
Kansas City, Kansas.

Dear sir:

On or about October 10th, 1925, Dr. W. H. Spencer of Yates Center vaccinated a herd of hogs belonging to one Mr. W. J. Agnew, Yates Center, and in about 9 or 10 days after the hogs were treated they showed signs of sickness and Dr. Spencer was called in to make an investigation as to what the trouble might be.

The records show that Dr. Spencer diagnosed the trouble as hog cholera.

There has been considerable correspondence with respect to this matter. The records in the case show that because of the stained conditions of the labels on the bottles there was no record of the serial number of the virus or serum made by either Dr. Spencer, who used the serum or the owner of the hogs, Mr. Agnew.

On December 21st I asked the Kaw Valley Serum Company to furnish me a record of the serial number of virus and serum used and up to date they have not done so. Therefore, I would be pleased to have you make an investigation as to this and furnish me a report of your findings. I might add that the records show that the serum used by Dr. Spencer was sent him by the Kaw Valley Serum Company on a contingent proposition, to use what he wanted to of the serum and return what was not used to the Serum Company. Dr. Spencer advises that he returned 2000 ccs of the serum in question.

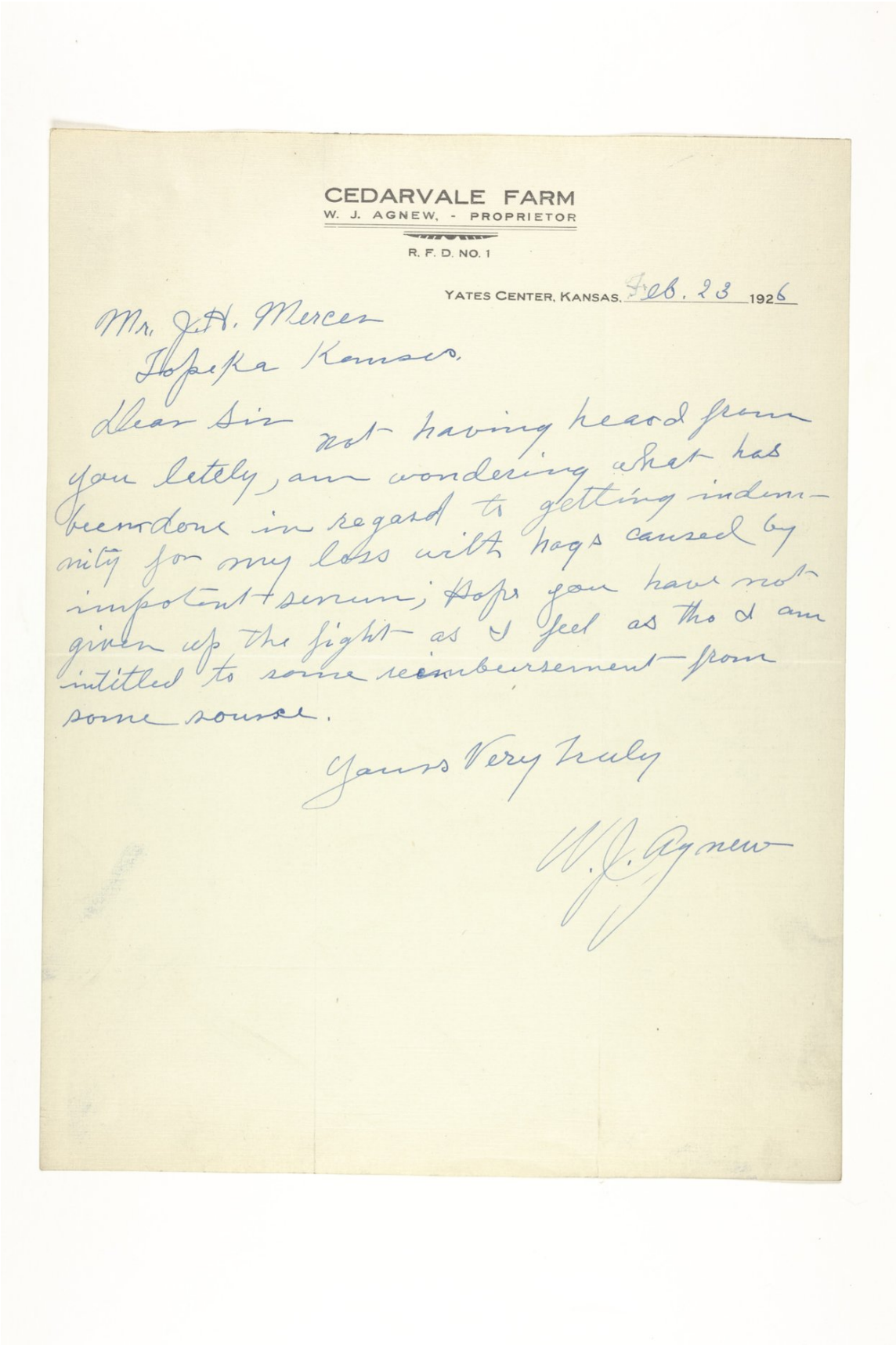
Thanking you in advance for this favor, I am,

Very truly yours,

JHM:P

Commissioner.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



CEDARVALE FARM
W. J. AGNEW, - PROPRIETOR
R. F. D. NO. 1

YATES CENTER, KANSAS, Feb. 23 1926

Mr. J. H. Mercer
Topeka Kansas.

Dear Sir not having heard from you lately, am wondering what has been done in regard to getting indemnity for my loss with hogs caused by impotent + serum; Hope you have not given up the fight as I feel as tho I am intitled to some reimbursement from some source.

Yours Very Truly

W. J. Agnew

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929

CEDARVALE FARM
W. J. AGNEW, - PROPRIETOR
R. F. D. NO. 1

YATES CENTER, KANSAS. 12/24 1925

Mr. J. H. Mercer
Livestock Sanitary Commission
Topeka, Kansas.

Dear Mr. Mercer:

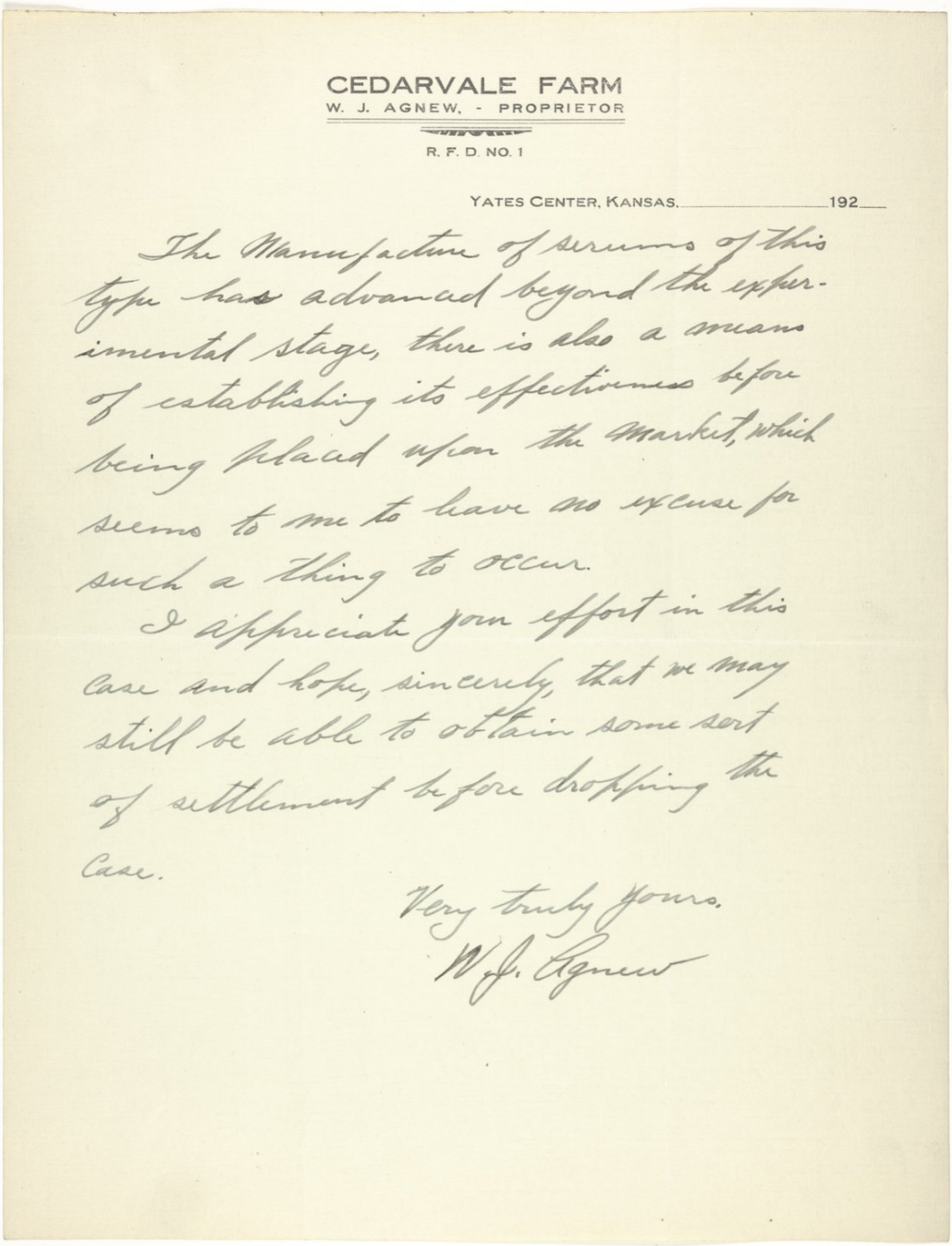
Thanks for your letter of December 7th in reply to my letter stating conditions surrounding my cholera losses.

I regret indeed the discouraging out-look for receiving indemnity. It was my understanding that any company engaged in the manufacture of serum should be registered in the states in which they sold their product, also that each run of product should be tested for its potentiality before

being offered to the public. In this event it would seem to me that the responsibility lies primarily with the manufacturer thence to those through whose hands the product has passed before being used. Thus my stand that the Manufacturer should stand losses incurred by virtue of a faulty product and in turn check up on the care of said product after leaving their factory before being used, thus establishing the cause of the impotency.

However if there are Court decisions on similar cases it does appear that our chances are rather slim. Nevertheless this other question arises: How is the public to be assured of getting a dependable product when there is nobody along the line to assume the responsibility for a quality product.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



CEDARVALE FARM
W. J. AGNEW, - PROPRIETOR
R. F. D. NO. 1

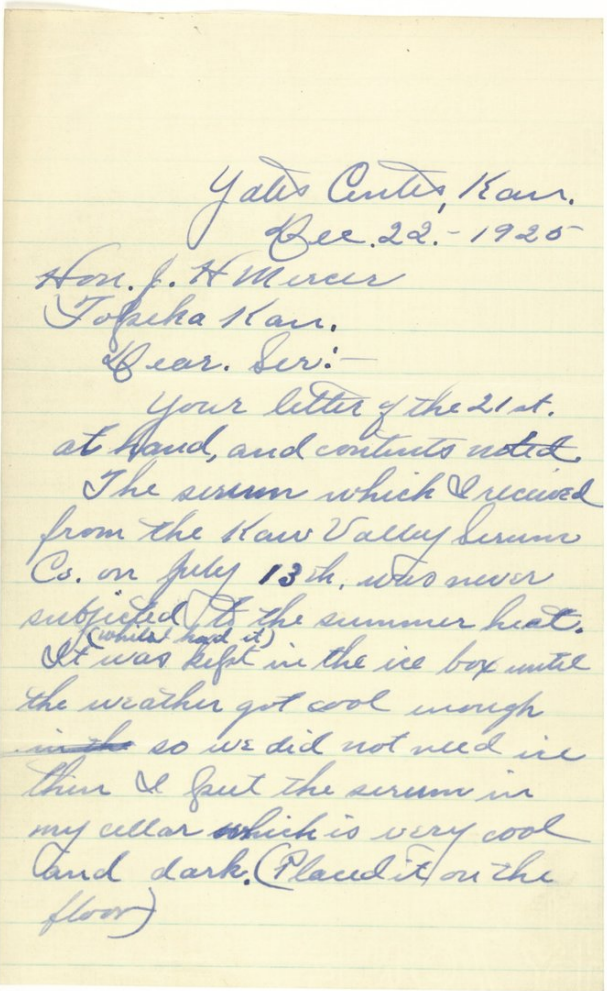
YATES CENTER, KANSAS, _____ 192___

The Manufacture of serums of this type has advanced beyond the experimental stage, there is also a means of establishing its effectiveness before being placed upon the market, which seems to me to have no excuse for such a thing to occur.

I appreciate your effort in this case and hope, sincerely, that we may still be able to obtain some sort of settlement before dropping the case.

Very truly yours.
W. J. Agnew

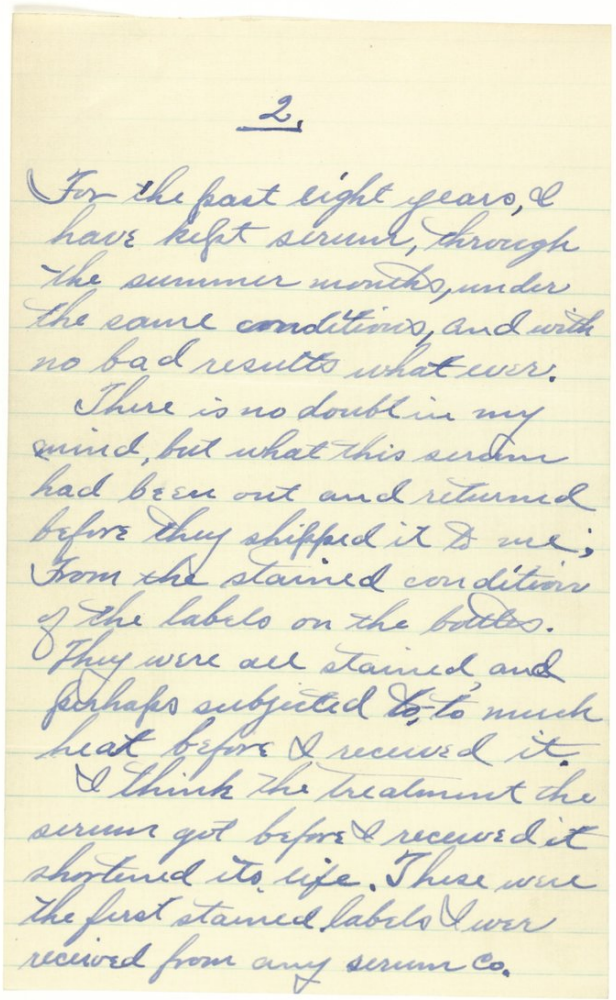
Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



Yates Center, Kan.
Dec. 22. - 1925

Hon. J. H Mercer
Topeka Kan.
Dear. Sir:—

Your letter of the 21st. at hand, and contents noted. The serum which I received from the Kaw Valley Serum Co. on July 13th. was never subjected to the summer heat. It (which had it) was kept in the ice box until the weather got cool enough ~~in the~~ so we did not need ice then & put the serum in my cellar ~~which~~ is very cool and dark. (Placed it on the floor)

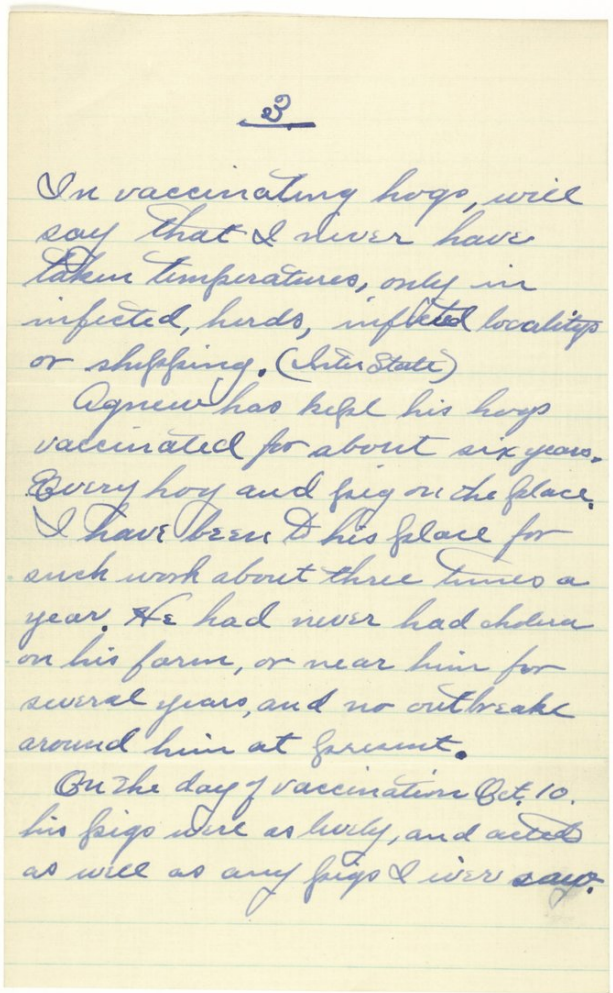


2.

For the past eight years, I have kept serum, through the summer months, under the same conditions, and with no bad results whatever.

There is no doubt in my mind, but what this serum had been out and returned before they shipped it to me; From the stained condition of the labels on the bottles. They were all stained and perhaps subjected to to much heat before I recieved it.

I think the treatment the serum got before I recieved it shortened its life. These were the first stained labels I ever recieved from any serum Co.



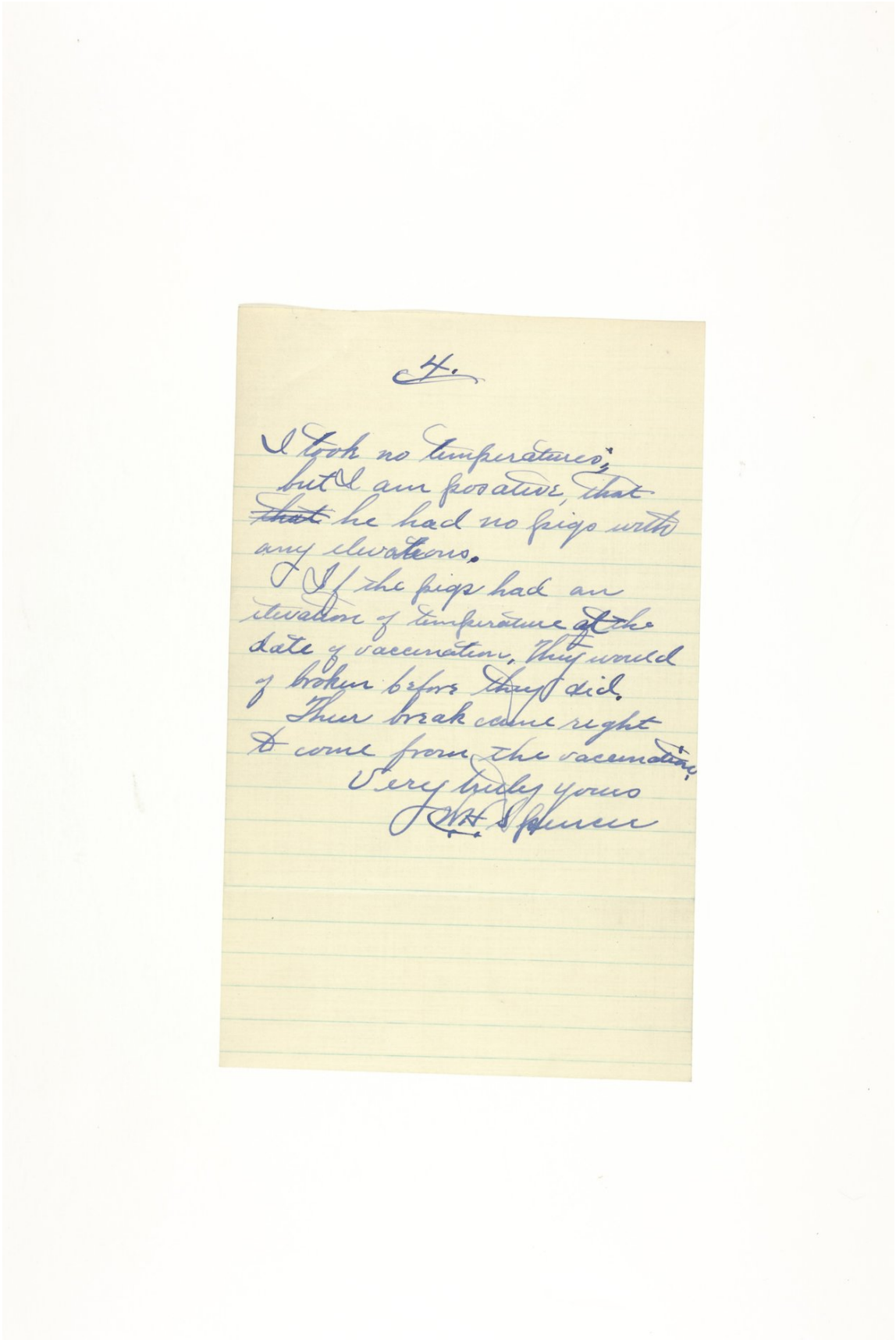
3

In vaccinating hogs, will say that I never have taken temperatures, only in infected, herds, infected localities or shipping. (Inter State)

Agnew has kept his hogs vaccinated for about six years. Every hog and pig on the place. I have been to his place for such work about three times a year. He had never had cholera on his farm, or near him for several years, and no outbreaks around him at present.

On the day of vaccination Oct. 10. his pigs were as lively, and acted as well as any pigs I ever saw.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



H.

I took no temperatures, but I am positive that ~~that~~ he had no pigs with any elevations.

If the pigs had an elevation of temperature at the date of vaccination, they would of broken before they did. Their break came right & come from the vaccinating.

Very truly yours
W. H. Spencer

December 21st, 1925.

Kaw Valley Serum Company,
2001 Grand Avenue,
Kansas City, Mo.

Gentlemen:

I have yours of the 18th instant and note carefully same.

It was not necessary for you to call my attention to the label of your serum eliminating your responsibility, and so forth, as I am quite familiar with the law governing matters of this kind. I am not altogether pleased with your letter for the reason that if there is any activity connected with the anti-hog cholera treatment that should be concerned in any matter that would prevent happenings as did occur in the vaccination of the Agnew herd of hogs at Yates Center it should be a manufacturer of serum.

From the fact that you have expressed no desire whatever of trying to furnish information in connection with this transaction I wish you would advise me what you did with the 2000 c.c.'s of serum that was returned to you by Dr. Spencer under date of October 13, 1925. Furnish me all the particulars connected with the serial numbers of this serum and if sold to anyone advise name of purchaser and whereit was used, and so forth. Of course I could get this from the government but I prefer it to be furnished by you.

I am interested in corredting the handling of serum or the use of serum that entails losses to hog producers in Kansas, especially so when they use it as a preventative and badresults are obtained as in this case.

Thanking you in advance for this information.

Very truly yours,

JHM:P

Commissioner.

December 21st, 1925.

Dr. W. H. Spencer,
Yates Center, Kansas.

Dear sir:

Referring to Mr. Agnew's herd of hogs.

I took the matter up with the Kaw Valley Serum Company and I have their reply this date advising that they had shipped you this serum on July 13, 1925, and that you did not state just how the serum was kept during July, August and September, the three hottest months of the year. They also note you failed to take any temperatures of the hogs in question.

I wish you would advise me on receipt of this letter how you did keep the serum during the time mentioned and also explain why you did not take the temperatures of Mr. Agnew's hogs when treating them and any further suggestions you might have in mind concering this transaction.

I am not altogether pleased with the letter of the Kaw Valley Serum Company for the reason that excuses for bad serum, negligence or anything of that sort does not make good Mr. Agnew's loss in this matter and if there has been any negligence we are going to see to it that it is corrected.

Very truly yours,

JHM:P

Commissioner.

Kaw Valley Serum Company

Producers of
ANTI-HOG CHOLERA SERUM
Sold only to Veterinarians

T. H. MURPHY, Proprietor

Every test of Serum for twelve years has shown 100% potency.

U. S. VETERINARY LICENSE NO. 26

Sales Office: 2001 Grand Ave.

Established 1910
Third Oldest Serum Co.

Day Phone HArrison 4610
Night Phone HYde Park 1076

Kansas City, Mo.,

December 18, 1925

Mr. J.H. Mercer,
Topeka, Kansas,

Dear Sir;-

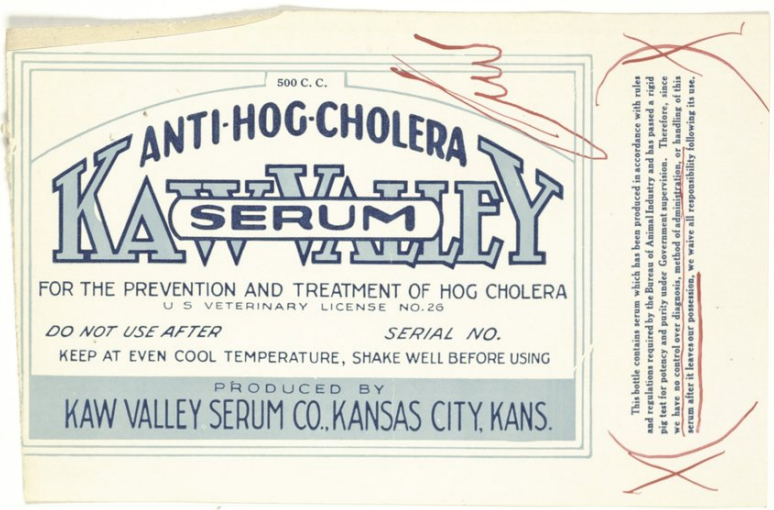
Your letter of December 17th has been received enclosing copy of a letter from Dr.W.H.Spencer of Yates Center, Kansas.

You will note that Dr.Spencer had us ship this serum to him on July 13th and he used the serum three months later to vaccinate the hogs. Just how this serum was kept during July, August and September, which were the hottest months, is not stated in his letter. He also says the hogs when vaccinated appeared to be healthy. He did not take any temperatures. The labels on the bottles were stained because the serum had just been taken out of cold storage where it was placed off Government test and the bottles always sweat in hot weather which frequently discolors the labels. We do not know what caused this trouble as the same serial of serum was used by a number of other veterinarians with no bad results. We remain, KAW VALLEY SERUM CO.

By

WE DO NOT SELL TO FARMERS OR COUNTY AGENTS

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



December 17th, 1925.

Kaw Valley Serum Co.,
Kansas City, Mo.

Gentlemen:

On October 10, 1925, Dr. W. H. Spencer of Yates Center, Kansas, vaccinated a herd of hogs belonging to one Mr. W. J. Agnew, Route 1, Yates Center, Kansas. In about 9 or 10 days after the hogs were treated they showed signs of sickness and on the 12th day Dr. Spencer was called in to make an investigation as to what the trouble might be.

The report shows that Dr. Spencer diagnosed the trouble at that time as hog cholera. Mr. Agnew states that Dr. Spencer has been vaccinating his hogs for the last 4 or 5 years and this is the first time he has had any bad results. I wrote Mr. Agnew advising him to have Dr. Spencer write me a report of the vaccination and the treating of his herd and I am enclosing you copy of his letter.

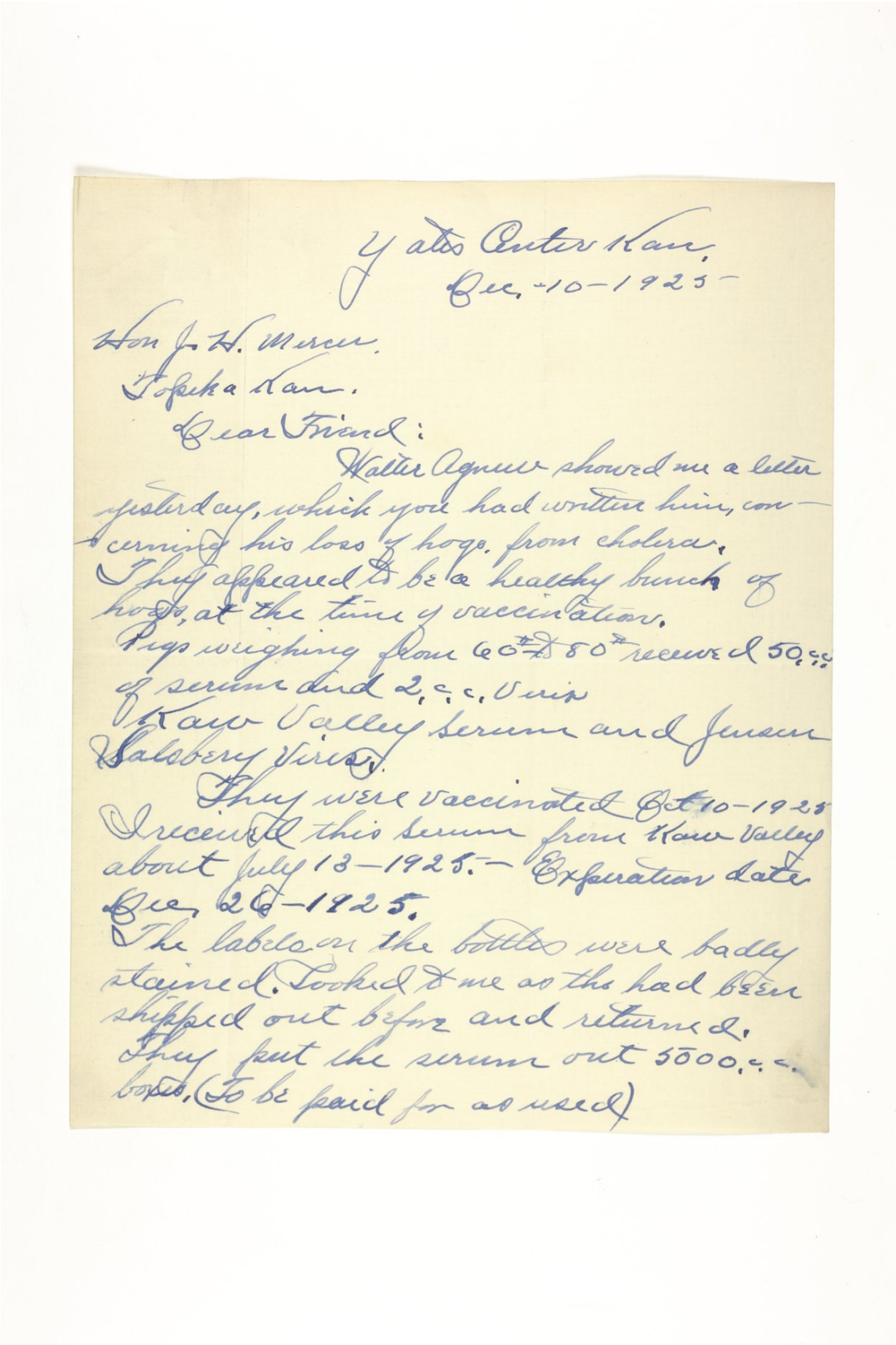
It appears to me in connection with the records in this case that there must have been something wrong with the serum and I am submitting this to you for your information and would be very glad to have you advise me as to what you think caused this outbreak of cholera in the hogs after vaccination. We are interested and I am sure you are interested in trying to eliminate just such happenings.

Thanking you in advance for an early reply.

Very truly yours,

JHM:P

Commissioner.



Yates Center Kan.
Dec. 10-1925-

Hon J. W. Mercer.
Topeka Kan.

Dear Friend:

Walter Agnew showed me a letter yesterday, which you had written him, concerning his loss of hogs from cholera. They appeared to be a healthy bunch of hogs, at the time of vaccination. Pigs weighing from 60# to 80# received 50 c.c. of serum and 2 c.c. Virus. Kaw Valley Serum and Jensen Salsbery Virus.

They were vaccinated Oct 10-1925 I received this serum from Kaw Valley about July 13-1925.- Expiration date Dec 26-1925.

The labels on the bottles were badly stained. Looked to me as tho had been shipped out before and returned. They put the serum out 5000 c.c. basis. (To be paid for as used)

and if not used to be returned to the Kaw Valley.

I returned I think 2000 c.c. of this serum about Oct 12-1926.

I have vaccinated perhaps three Thousand head of hogs during the past seven years with the Kaw Valley Serum and this is the first trouble I have had with it.

Very truly yours
W. A. Spencer

P.S.—The last pig we vaccinated at Agnews weighed about 80#. I gave him what was left in a bottle. 70 c.c. Serum 2nd 2 c.c. virus. This pig died from cholera.

December 7th, 1925.

Mr. W. J. Agnew,
R.F.D. No. 1,
Yates Center, Kansas.

Dear sir:

I have yours of the 2nd instant and note carefully same.

I do not want to discourage you in your effort to secure indemnity from someone on account of the loss of your hogs by reason of vaccinating, however, unless you can give proof that the serum company knew the serum they sent you was impotent you would have no recourse against them for your losses. The same would apply to your local veterinarian who administered the serum. If you could prove he knew the serum was impotent he could be held liable, otherwise you would have no legal claim.

There are three or four court decisions on this subject and the decisions of the court all set out that there has to be positive proof of negligence or that the serum companies knowingly sold impotent serum. I might add, however, in this connection I know of a few serum companies that have furnished free serum to the owner for awhile or reimbursed him in a small way.

You have Dr. Spencer write me a letter advising me as to his knowledge of this case; as to the health condition of your hogs at the time they were vaccinated and all particulars concerning the entire transaction together with the name of the company handling the serum or company where serum was purchased. I am not writing Dr. Spencer but you can show him this letter if you wish but have him write me and when I receive same I will take the matter up with the serum company and do everything I can to get reimbursement made to you for your losses or

part of your losses if possible.

Very truly yours,

JHM:P

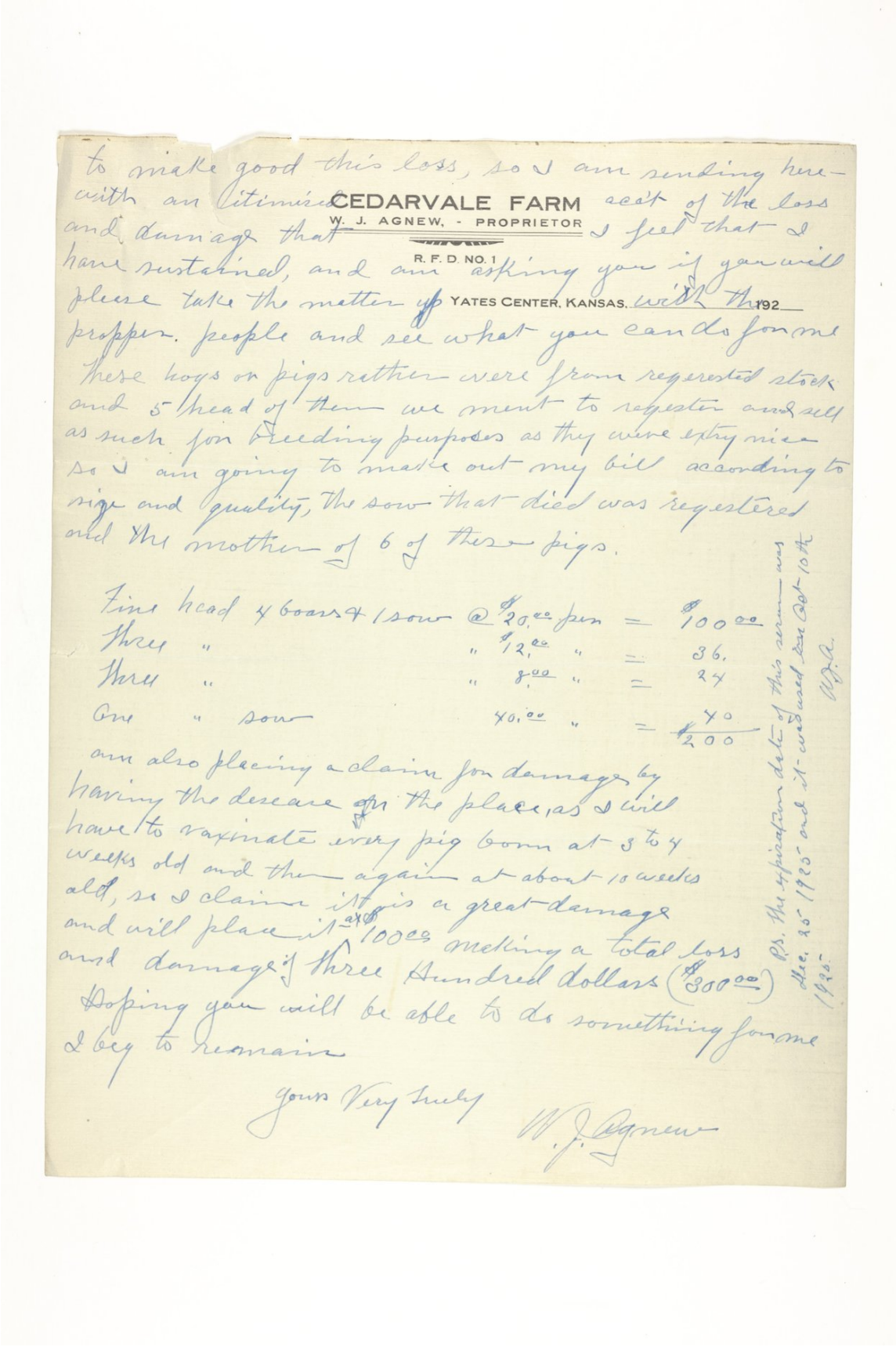
Commissioner.

CEDARVALE FARM
W. J. AGNEW, - PROPRIETOR
R. F. D. NO. 1

YATES CENTER, KANSAS. Dec. 2 1925

Mr. J. H. Mercer
Topeka Kansas.

Dear Sir — Am writing you in regard to a batch of cholera that I got by the use of spoiled serum, have been in the habit of vaccinating my hogs as soon as they were old enough and that was usualy from 10 to 12 weeks old, have done this for the past 4 years, so as to keep my place free from the decease and also keep me on the safe side in handling hogs; but this time something was wrong; Dr. W. H. Spencer did the work, the same as he has done for the past 4 years, but 12 days afterwards I called him out to see what was the matter with my pigs and he brot a Dr. West, who happened to be in town, I believe Dr. West is one of your men, anyhow they pronounced it cholera and advised treating them with more serum, which we did the next day, but the pigs were so thoroughly inoculated that we only saved 10 out of 21 that was vaccinated, I had thirty head older hogs that had been vaccinated in the spring, they have all come through except one brood sow which took sick and died, making a total of 12 head that I lost, now I feel that some one is entitled



CEDARVALE FARM
W. J. AGNEW, - PROPRIETOR
R. F. D. NO. 1
YATES CENTER, KANSAS.

to make good this loss, so I am sending herewith an itimized acct of the loss and damage that I feel that I have sustained, and am asking you if you will please take the matter up with the proper people and see what you can do for me these hogs or pigs rather were from registered stock and 5 head of them we went to register and sell as such for breeding purposes as they were very nice so I am going to make out my bill according to size and quality, the sow that died was registered and the mother of 6 of these pigs.

Five head & boars & 1 sow	@ $20.00	per	= $100.00
Three "	" $12.00	"	= 36.
Three "	" 8.00	"	= 24
One " sow	40.00	"	= 40
			$200

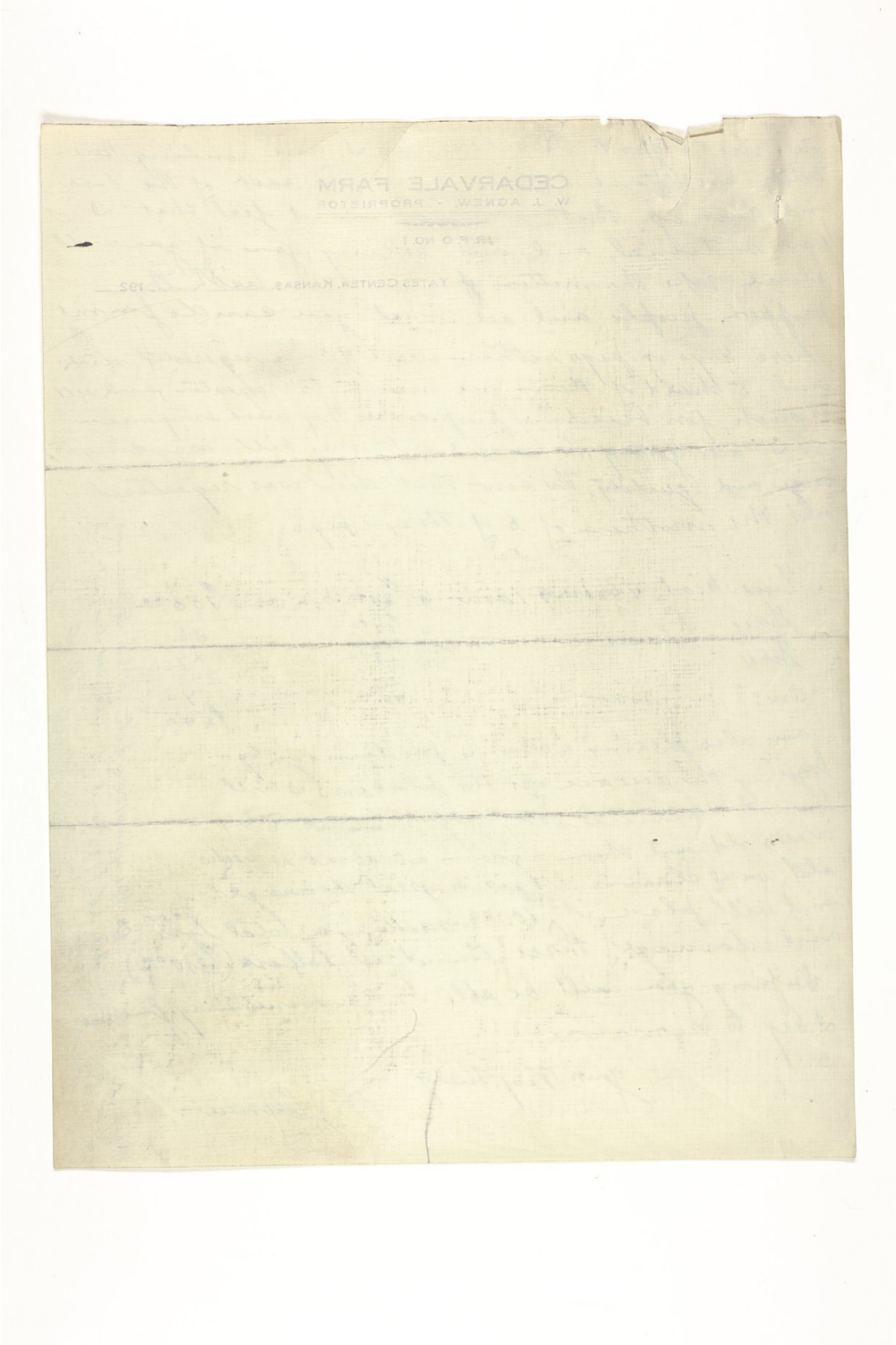
am also placing a claim for damage by having the desease on the place, as I will have to vaxinate every pig born at 3 to 4 weeks old and then again at about 10 weeks old, so I claim it is a great damage and will place it at $100 making a total loss and damage of three Hundred dollars ($300.00)

Hoping you will be able to do something for me I beg to remain

Yours Very Truly
W. J. Agnew

P.S. The expiration date of this serum was Dec. 25 1925 and it was used Sept 10th 1926.
W.J.A.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



July 22nd, 1926.

Mr. A. F. Myers,
Ozawkie, Kansas.

Dear Mr. Myers:

Miss McCloskey from the governmentoffice advises that you had been in the office and requested that we not take any further action as regards your federal indemnity and to send you the government check in question.

I am quite sure that in time you would have received the balance of indemnity but in line with your suggestion I am enclosing the check in question.

I had a letter from H. T. Phinney of Oskaloosa a few days ago advising that you had been in his office and paid him $15 for his services in your case against Jefferson county. If I recall it I told Burdick that I would stand one-third of whatever expense you were put to in the litigation of this case so far as the lawyer's costs were concerned and therefore am enclosing you check for $5. I will call Burdick's attention to this as I understand it he was to contribute a like amount.

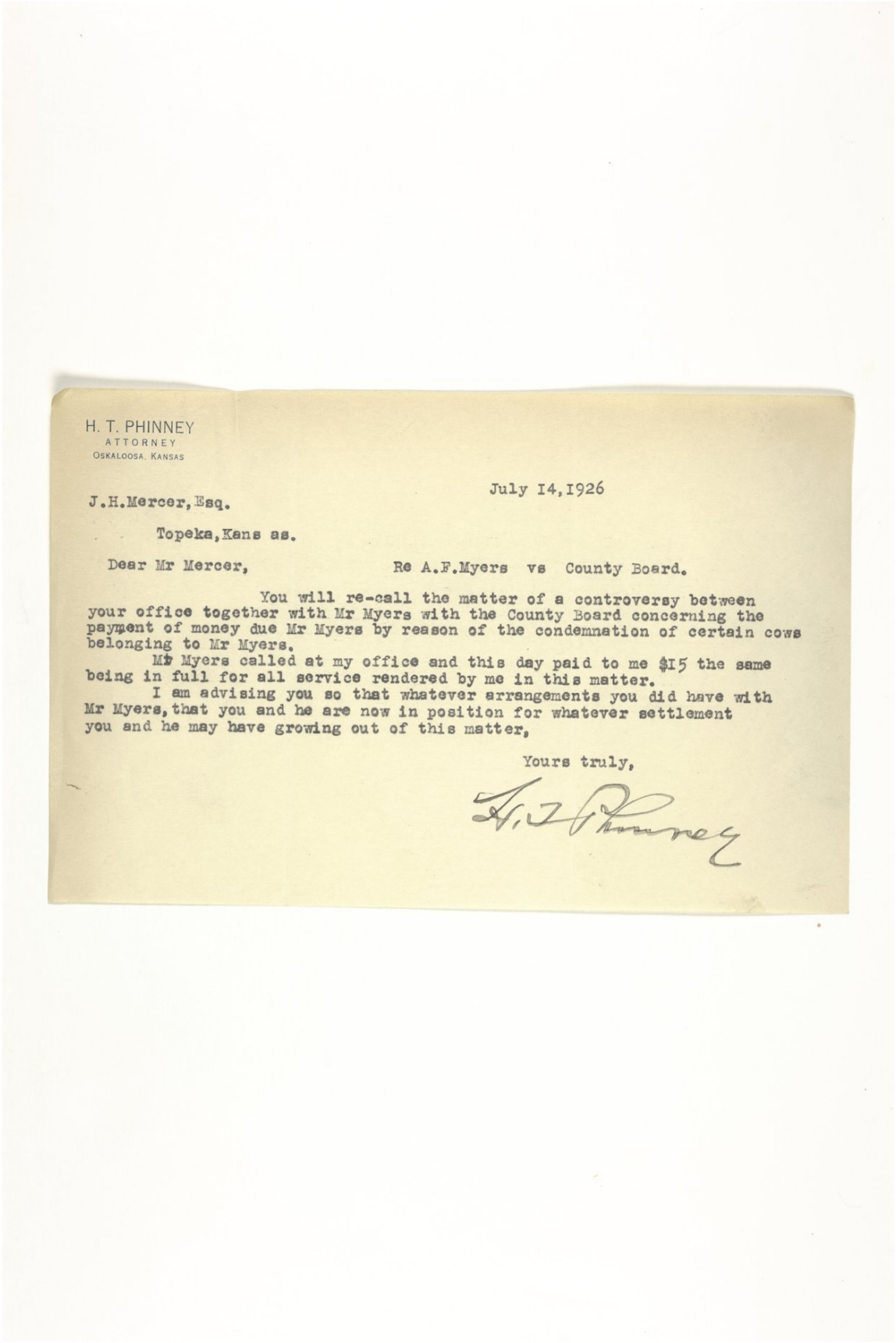
Trusting this will be satisfactory.

Very truly yours,

JHM:P

Commissioner.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929



H. T. PHINNEY
ATTORNEY
OSKALOOSA, KANSAS

July 14, 1926

J.H.Mercer, Esq.

Topeka, Kans as.

Dear Mr Mercer, Re A.F.Myers vs County Board.

You will re-call the matter of a controversy between your office together with Mr Myers with the County Board concerning the payment of money due Mr Myers by reason of the condemnation of certain cows belonging to Mr Myers.

Mr Myers called at my office and this day paid to me $15 the same being in full for all service rendered by me in this matter.

I am advising you so that whatever arrangements you did have with Mr Myers, that you and he are now in position for whatever settlement you and he may have growing out of this matter,

Yours truly,

H. T. Phinney

July 13th, 1926.

Dr. N. L. Townsend,
25 Federal Building,
Topeka, Kansas.

Dear sir:

Enclosed find affidavit of A. F. Myers, Ozawkie, Kansas.

Very truly yours,

P Commissioner.

July 2nd, 1926.

Mr. A. F. Myers,
Ozawkie, Kansas.

Dear Mr. Myers:

I have made up an affidavit with respect to the registration of your two reactor cows that were listed and paid for by the federal government as grades. Go before a notary public, sign this statement and return to me at your very earliest convenience and I will turn same over to Dr. Townsend and I am sure in due course of time we will get the records corrected and a check issued to you for the full amount of your indemnity or $56.50.

Get this back to me as soon as you can.

Very truly yours,

JHM:P

Commissioner.

Ozawkie, Kansas.
July 13, 1926.

Mr. J. H. Mercer,
Livestock Sanitary Commissioner,
State House,
Topeka, Kansas.

Dear sir:

I hereby certify that the two reactor cows for which the attached check and record is in payment of were purebred registered cows, registered under the following name and number: Abbekerk Lady May, registry number 366891 and Sunflower Flora Walker, registry number 332384, and said cows should have been listed as such when appraised entitling me to the indemnity on purebred cattle rather than on grade cattle.

The foregoing is a true and correct statement.

_____

STATE OF KANSAS)
) ss.
County of JEFFERSON)

A. F. MYERS , of lawful age, being first duly sworn, upon oath says that he has read the above and that the statement therein contained is true.

Subscribed in my presence and sworn to before me this _____ day of _____ 1926.

_____
Notary Public.

Commission expires _____ 192 .

March 23rd, 1926.

Mr. A. F. Myers,
Ozawkie, Kansas.

Dear Mr. Myers:

In accordance with our telephone conversation this date, I have cancelled the order on the board of county commissioners of Jefferson county issued you under date of December 2nd in payment of Jefferson county's indemnity on two head of reactor cattle belonging to you, amount of said order being $61.49, and have drawn an order on the board of county commissioners of Jefferson county in your favor for $56.49.

This order is in accordance with final agreement reached as between Arthur Haynes, member of the board of county commissioners who representated the county in the appraisement of your cattle, yourself and A. P. Burdick, representative of this department. Go before a notary public qualify to this voucher and file same with the board of county commissioners who will issue you county warrant in payment for same.

I consider that you have been most fair and agreeable in every way in trying to settle this dispute and I am certainly glad the matter has been adjusted, thereby eliminating any further action on the part of this department.

Very truly yours,

JHM:P

Commissioner.

P. S. I am enclosing you copy of letter I have just written to Mr. Haynes.

March 23rd, 1926.

Mr. Arthur Haynes,
Oskaloosa, Kansas.

Dear sir:

In accordance with our conference yesterday here in Topeka I called Mr. A. F. Myers of Ozawkie this date and advised him of our talk and he stated that he felt he had made concessions in connection with the indemnity on his reactor cattle that he should not have been required to have made but that he did not want to have any further controversy in the matter and would leave it with me to adjust in my own way.

I have listed the appraisement on the cattle in question at $120 and $110 per head and drawn order in favor of Mr. Myers accordingly.

I am certainly glad that this matter has been finally adjusted without any further action on the part of this department and trust Mr. Myers' order will be promptly taken care of.

We are enclosing accredited herd federal appraisement. Please sign and return in self-addressed envelope.

I am enclosing copy of this letter to Mr. Myers.

Very truly yours,

JHM:P

Commissioner.

Livestock Sanitary Commissioner's Office, correspondence, 1926-1929

J. H. MERCER
COMMISSIONER

State of Kansas

OFFICE OF
LIVE STOCK SANITARY COMMISSIONER
TOPEKA

February 24th, 1926.

Board of County Commissioners,
Jefferson County,
c/o Thos. A. Hatfield, County Clerk,
Oskaloosa, Kansas.

Gentlemen:

Received a letter from Thos. A. Hatfield, County Clerk of Jefferson County, written under date of February 16th, advising of the action of your Board on that date concerning an order drawn by the Livestock Commissioner in favor of A. F. Myers for the payment of indemnity on two reactor cattle belonging to Mr. Myers.

I am very much surprised to note the action of your Board in this matter. The law has been fully explained in this case and I believe you understand same. The law is plain as to the duty of a Board of County Commissioners with respect to the payment of an order issued by the Livestock Commissioner for the payment of tubercular diseased cattle and the Supreme Court has passed upon the validity of the law. I do not wish to be arbitrary in this matter. Neither is it my disposition to cause anyone trouble but I have conferred with the Attorney General of the State and he advises that the only legal way that you could refuse to pay an order of this department for the payment of diseased livestock issued in compliance with the law would be to charge collusion or fraud on the part of the appraising board and no partial payment could be made on an order of this kind unless it was in compliance with an agreement made by all parties to the appraisement of the cattle in question.

I am going to give you plenty of time to give this case all the consideration you wish and make any further investigation you might wish in connection with same. Therefore, you may have until March 10th, 1926, to make up your mind as to what you will do and unless the order issued to Mr. A. F. Myers