

Geolar wins \$12 million in dispute

7/12/95

By LIZ RUSKIN
Daily News reporter

It all began eight years ago with the award of a small contract: Geolar Inc., an Eagle River company with 14 employees, was to be paid \$389,000 to clear trees for a section of new powerline.

The contract, though, proved anything but simple, and the little Eagle River company Monday won a \$12 million jury verdict against Gilbert/Commonwealth, the Michigan engineering firm hired to manage the Homer Electric Association project, and its parent company, Gilbert Associates.

Larry Lockyer, one of Geolar's owners, said Gilbert goofed when it wrote the contract specifications, then purposely ran his company out of business.

"Basically, they made a mistake and they just didn't want to 'fess up to it," Lockyer said in an interview Tuesday.

The dispute began over what Geolar was supposed to do with the trees it felled. The contract said that while most species of trees need only be cut into 10- or 15-foot lengths, the white spruce had to be chopped to 2-foot segments to hasten the drying and thus hinder the spread of spruce bark beetles.

Before submitting its bid, Geolar determined that most of the spruce trees in the 38-mile section were either black spruce or Lutz spruce. Geolar prepared its bid assuming the Lutz — a hybrid between Sitka and white spruce — did not meet the definition of "white spruce" and could be left in long lengths.

After the contract was awarded, but before work began, Geolar explained how it intended to handle the Lutz spruce.

Gilbert/Commonwealth and Homer Electric maintained the Lutz was virtually indistinguishable from the white spruce and therefore should be cut into small segments.

Geolar offered to fix the problem for an extra \$185,000 — which would still leave it the low bidder — but the offer was rejected.

Geolar's lawyers, Rick Friedman and Bill Royce, claimed Gilbert then set out to make it unreasonably difficult for Geolar to do its job, hoping to force Geolar out of business to collect on Geolar's bond.

The entire \$12 million verdict is for punitive damages. Friedman, who argued the case, did not ask the jury for any compensatory award.

Robert Dickson, the lawyer representing Gilbert/Commonwealth, said his client will appeal. He said the evidence showed Homer Electric bent over back-

ward to pay Geolar, and even paid for work that hadn't been done.

But Lockyer said Gilbert came up with excuses not to pay him money he was due and made his employees do busy work.

"They had my crews picking up twigs," he said.

When they needed help finding the survey stakes in heavy snow, Gilbert refused to help or even provide its survey materials, he said.

And Gilbert used compasses to make sure Geolar workers were leaving logs parallel to the centerline of the right of way, while contractors who cleared other sections were allowed to leave their logs scattered.

Lockyer said he eventually ran out of money.

"It got to the point that I was making payroll with a credit card," he said.

In June 1987, with the section about half cleared, Geolar left the job.

Homer Electric filed a claim against Geolar's bond, and the bonding company paid \$389,000 to complete the contract. The bonding company then sued Geolar.

Faced with mounting debt, Lockyer said he had to sell off most of the company's assets. He borrowed more than \$40,000 from his father and brother to

6 *Basically, they made a mistake and they just didn't want to 'fess up to it.*

— Larry Lockyer, one of the owners of Geolar, an Eagle River company

pursue his legal claims.

Geolar settled with Homer Electric Association last year, after a trial and a Supreme Court appeal, for \$1.15 million.

Gary Berg, foreman of the Superior Court jury that returned the \$12 million verdict, said jurors were convinced Gilbert acted in bad faith and its treatment of Geolar was outrageous.

Gilbert Associates has gross revenues of about \$300 million a year, according to Friedman, Geolar's lawyer.

Lockyer said he's aware the appeals could drag on and he's not expecting a windfall any time soon.

"I'm prepared to spend another eight years on it," he said.