



BEYOND PESTICIDES

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May 11, 2015

Michael C. Gregoire
Acting Administrator
Animal and Plant Health Inspection Service
Regulatory Analysis and Development, PPD
APHIS, Station3A-03.8
4700 River Road Unit 118
Riverdale MD 20737-1238

Re. [Docket No. APHIS-2013-0047], U.S. Department of Agriculture, Stakeholder Workshop on Coexistence

Dear Acting Administrator Gregoire:

I am writing you on behalf of Beyond Pesticides to comment on the workshop USDA held on March 12-13, 2015 and on activities underway in response to recommendations provided by the agency's Advisory Committee on Biotechnology and 21st Century Agriculture (AC21). Beyond Pesticides, founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers and farmworkers, advances improved protections from pesticides and alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership and network span the 50 states and groups around the world.

We appreciate USDA's hard work in advancing an understanding of agricultural coexistence and allowing various stakeholders the opportunity to discuss and provide input into this issue. We look forward to working with you further to perfect the process and ensure equitable coexistence throughout all American farming communities. However, we have serious concerns regarding the workshop and its failure to capture a balanced and fair representation and discussion of the problem at hand. As a result, we believe the March event was a lost opportunity for productive discussion and strategy.

The issue of coexistence between farmers using genetically engineered (GE) crops and non-GE farmers is as important as ever. GE crops pose a constant threat to the livelihood of organic farmers and undermine the burgeoning growth of the organic industry. A 2014 study released by Food and Water Watch and the Organic Farmers' Agency for Relationship and Marketing (OFARM) in response to USDA's AC21 report in 2012, found that one-third of organic farmers have experienced GE contamination on their farm due to the nearby use of GE crops. Over half of these growers have had loads of grain rejected because of unwitting GE

contamination. These rejections can lead to big income losses for farmers, with a median cost of approximately \$4,500 per year, according to the survey. In addition, organic farmers incurred costs from preventive measures to avoid GE contamination. The median annual cost of those measures ranged from \$6,532 to \$8,500.¹

There have been several high profile contamination cases involving GE contamination, as well as accompanying economic losses as a result of this contamination, that clearly highlight the extent of this problem. In May of 2013, USDA announced that unapproved GE wheat was found growing in an Oregon wheat field. After this discovery, Japan cancelled its order to buy U.S. western white wheat.² In September of 2013, it was confirmed that GE alfalfa contaminated non-GE alfalfa in Washington State. The Washington state farmer complained that his alfalfa hay had been rejected for export sale as a result of this contamination.³ More recently, in September of 2014, GE wheat was found growing at a research facility in Montana.⁴

The fact that organic and non-GE farmers are harmed by drift from GE crops and not *vice versa* implies that an asymmetry exists. Language such as “coexistence,” on the other hand, seems to imply a symmetrical situation. Those who use a harmful technology have a responsibility to contain it so that it does not harm others. This is true of pesticides and hazardous materials used in manufacture, and it is also true of GE crops. USDA should not be addressing “coexistence” as if organic farmers have the same responsibility towards gene drift as do GE farmers.

We support many of USDA’s activities currently underway as response to the recommendations from AC21, including, but not limited to: improving crop insurance options for organic farmers, funding research on gene flow and mitigation techniques, examining our public seed collections for GE contamination, supporting the Organic Seed Finder database, and evaluating the commercial availability of organic and non-GE seed varieties. We are also optimistic regarding USDA’s proposed activities in response to these same recommendations, such as initiatives that aim to gather data on the economic impacts of GE contamination and initiatives that focus on best practices for GE traits in seed stocks and communication and outreach strategies between growers. We believe best practices that aim to prevent

¹ Food and Water Watch. Organic Farmers Pay the Price for GMO Contamination. 2014. Available at: documents.foodandwaterwatch.org/doc/GMO_contamination.pdf.

² Julie Ingwersen and Charles Abbot. Reuters. May 30, 2013. Accessed May 8, 2015. Available at: <http://www.reuters.com/article/2013/05/30/us-wheat-asia-idUSBRE94T0JA20130530>.

³ Carey Gillam. Reuters. September 17, 2013. Accessed May 8, 2015. Available at: <http://www.reuters.com/article/2013/09/17/usa-alfalfa-gmo-idUSL2N0HD1SQ20130917>.

⁴ U.S. Department of Agriculture (USDA). Press Release. USDA Announces Close and Findings of Investigation into the Detection of Genetically Engineered Wheat in Oregon in 2013; Opens New Investigation Into Separate Detection of GE Wheat in Montana in 2014. September 26, 2014. Available at: http://www.aphis.usda.gov/wps/portal/aphis/newsroom/news/lut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOK9_D2MDJ0MjDzdXUyMDTzdPA2cAtz8jT1dTIEKloEKnN0dPUzmfQwMDEwsjAw8XZw8XMwtfQ0MPM2I02-AAzgaENifrh-FgsTfyMPCwNPPySjEP8DA2MDdDKoAnxPBCvc4oSA3NMlg01MRAL7m6Pg!/?1dmy&urile=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Newsroom%2FSA_News%2FSA_By_Date%2FSA_2014%2FSA_09%2FCT_ge_wheat.

contamination are important. We also believe that such a strategy cannot rely solely on voluntary compliance, which is why we enthusiastically support the USDA's plans to update GE regulations. While communication and outreach to farmers (and between farmers) is important, this strategy alone is insufficient to prevent the problem of contamination and resolve disputes that arise. The last thing we need is to pit farmers against each other when communication and prevention strategies fail.

We recommend three additional goals for USDA:

1. USDA must level the playing field amongst stakeholders so that the burden of preventing contamination is no longer concentrated on organic and non-GE operations. In order to achieve true coexistence, we believe responsibility must be tied to ownership – those who patent, promote, and profit from GE products should be responsible for preventing contamination and covering damage in cases where prevention fails.
2. USDA should establish a fair compensation proposal. The patent holder should be responsible for segregation and traceability, over the entirety of the life cycle of the crop. It should be held responsible for the economic and market harm caused by its products.
3. USDA should more fully analyze environmental and economic implications of GE contamination and the implications of managing GE crops. These are also of critical importance to the ideas underpinning “coexistence” – how one system of agriculture can directly and indirectly impact the viability of the other.

The most critical issue that we would like to see addressed concerns the definition of “coexistence.” Without a solid understanding of this central concept, any plans for implementation would be ultimately fruitless and would lead only to more conflict and misunderstanding in the future. The current definition falls far short of any true understanding of what it is to coexist and lacks any assurance that the involved parties would receive the necessary protection required in order to effectively coexist. Specifically, we suggest the inclusion of a phrase in the definition stipulating that all parties are entitled to assurances against harmful trespass from genetic drift. Coexistence of any kind should include a shared understanding of boundaries and a requirement under the penalty of law to respect those boundaries. Without any guarantee that coexistence will ensure cultivation without trespass, organic and non-GE farmers will be at a significant disadvantage and “coexistence” will result in a severely imbalanced system. Where GE trespass occurs, operations that are trespassing should be prevented from doing so.

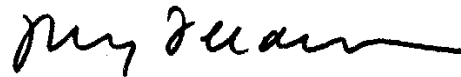
Responsibility for ensuring this guarantee should be borne by the GE patent holder and the GE farmers. A system in which organic farmers are forced to expend resources to protect themselves from the choices of others, while potential trespassers are merely allowed to go about their business regardless of consequences is not equitable coexistence and is not a permanent solution.

Organic producers are prohibited by organic regulations from using any crop materials that are genetically engineered. Consumers have come to expect and demand that organic

foods are GE free. Based on these expectations, some retailers specializing in organic products will test shipments of organic material they receive to ensure that they are not deceiving their customers. A rejection of a shipment from a large retail store can be financially devastating to an organic producer and can be crippling to a farmer's reputation, community standing, and trust from consumers. This can happen despite the farmer's best efforts and due entirely to forces outside his or her control stemming from the actions of others. It is time to rectify this by creating a truly balanced and equitable system of coexistence requiring that GE farmers take actions to prevent contamination.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Feldman", with a long horizontal flourish extending to the right.

Jay Feldman
Executive Director