



March 19, 2013

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So, Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-12-0070
RE: GMO Ad-Hoc Subcommittee – GMOs and Seed Purity Discussion Document

Dear Ms. Arsenault:

The certified organic members of the Organic Seed Growers and Trade Association (OSGATA) would like to reinforce the importance of the NOSB GMO Ad Hoc Subcommittee's discussion of GMOs and Seed Purity.

OSGATA has previously commented on the subcommittee's discussion document prior to the fall 2012 NOSB meeting. As the voice of the organic seed trade, we want to amplify our support of the NOSB's work towards a seed purity standard to ensure the availability of clean organic seed.

Organic Seed Integrity

Organic seed is *the most critical* link to producing bona fide organic products—as crops grown from seed contaminated by transgenic pollution will ultimately yield a contaminated product. GE contamination of organic seed, if left unchecked, not only compromises the livelihoods of seed growers and the viability of *all* organic farmers but also the credibility of the USDA's organic label in the eyes of the American consumer.

OSGATA would like to encourage the USDA in establishing a seed purity standard and protocols of implementation to ensure that organic and conventional planting seed (allowed under the NOP rule)— as well as parental seed lines for breeding and foundation stock seed—maintain genetic integrity free of transgenic content.

Avoidance practices on behalf of organic growers are of little value if seed producers are starting with an already contaminated seed supply. OSGATA's policy on Genetic Engineering, approved by our membership, states that contamination of organic seed by GE seed constitutes irreparable harm to the organic seed industry by undermining the integrity of organic seed: *any* detectable level is unacceptable. This policy represents a strong foundation on which to produce the organic goods sought by consumers.

Protecting our Farmers

USDA must acknowledge that inextricably linked to the issue of GE contamination of organic seed are the legal ramifications for organic farmers resulting from such unwanted contamination. Above and beyond extinguishing the value of organic seed and organic crops in the organic marketplace, GE contamination creates significant legal jeopardy to organic farmers under U.S. patent law.

Patent law grants absolute ownership to the patent holder. Only under the restraints of signed licensing agreements may others legally possess patented material. Therefore, it does not matter how one comes into possession of patented material, nor whether there is intent, nor whether there is even knowledge of possession. Accordingly, patent infringement may be claimed against innocent organic farmers by transgenic patent holders when their patented technology trespasses onto their farms and contaminates organic crops.

It is because of this injustice and unreasonable legal liability that a lawsuit— known as *Organic Seed Growers and Trade Association et al v. Monsanto*— was filed in Federal District Court in Manhattan in March 2011. The 83 Plaintiffs, which include individual farmers, independent seed companies, and farm organizations, represent over 300,000 citizens including over 4,500 certified organic farmers. Plaintiffs are preemptively seeking court protection under the Declaratory Judgment Act from being accused of patent infringement, should Monsanto's patented transgenic seed trespass onto our farms and contaminate our crops.

USDA should play an assertive role in safeguarding the private property rights of American organic farmers when it comes to preventing unwanted trespass and genetic drift by GE patent-holders onto organic farms.

Establishing Protocols

Seed growers and seed companies supplying organic seed to the organic community should follow protocols designed to intercept GE-contaminants, to deal with potential sources of contamination, and are appropriate to farm size.

OSGATA feels that protecting organic seed integrity is a shared responsibility. USDA's Advisory Committee on Biotechnology and 21st Century Agriculture (AC21) was revived by Agriculture Secretary Vilsack with this specific charge: "to develop practical recommendations for strengthening coexistence among different agricultural production methods." OSGATA Treasurer Isaura Andaluz, of Cuatro Puertas in New Mexico, served on AC21 and was the only participant in the diverse group who refused to accept the 'consensus' report and instead filed a dissent (p. 57-58 of "Enhancing Coexistence: A Report to the Secretary of Agriculture," November 19, 2012).

OSGATA stands by Andaluz's dissent, which we feel offers correct and valuable insight to this subcommittee's discussion.

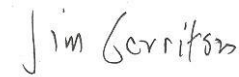
The organic sector is important for rural economic development and consumer choice and is as important to the conversation on coexistence as any other agricultural sector. AC21's final report fails to recognize ongoing economic losses non-GE farmers are incurring as a result of maintaining seed purity and also unreasonably faults seed producers who become contaminated.

Maintaining organic seed purity is not exclusively the responsibility of non-GE farmers. We believe that the USDA shares the responsibility in protecting the interests of organic farmers, including non-commodity and smaller farmers, in light of threats of GE contamination. Organic farmers have a right to farm in the way they choose on their farm without threat of intimidation and transgenic trespass.

It is also important that recommended and/or required measures are not unnecessarily burdensome for the organic community. Our GE contamination avoidance and testing protocols document—slated for release later this year— addresses crop-specific best management practices and will be a valuable resource for all organic farmers. OSGATA also urges the NOSB to continue to work in collaboration with the organic seed sector in drafting appropriate protocols.

We thank the NOSB for their continued attention to seed issues. We believe there is an urgent need to proactively develop procedures to ensure GE contamination prevention. The integrity of the organic marketplace is reliant upon the protection of organic seed.

Sincerely,

A handwritten signature in black ink that reads "Jim Gerritsen". The signature is written in a cursive, slightly slanted style.

Jim Gerritsen, President

OSGATA Board of Directors