

The Importance of the OSGATA v. Monsanto Lawsuit to Every Person and Animal Needing Food to Live

We, the Plaintiffs in this lawsuit, seek relief from the court because organic, biodynamic, and other farmers of non-transgenic crops need legal protection against contamination by Monsanto's transgenic crops and the resulting real threat of patent infringement lawsuits. Monsanto's crops can also contaminate garden vegetables and other plants, so gardeners can be harmed as well as farmers, but the issue is more important to consumers because of the potential health consequences of transgenic food, particularly in subsequent generations.

Among the dangers many do not understand, transgenic sugar beets can contaminate non-transgenic table beets and the chard now in most mixed salad greens. Commercial and organic seeds for these three crops are grown almost on top of each other in Oregon's Willamette Valley, so contamination could occur without people knowing it---unless they are rigorously testing every crop and all parts of it. This is just one detail on the subject. The full picture cannot be painted in this brief statement, but a few of the pertinent issues can be highlighted.

For another couple of examples, transgenic canola can contaminate plants in its same Brassica family including rutabaga and red Russian kale. Transgenic zucchini can genetically corrupt other squash and gourds via insect pollination, and the transgenic material can be spread widely by birds and animals through their droppings. That can contaminate soil bacteria and fungi where the transgenic plants grow, in turn spreading carelessly introduced genes to other plants. Transgenic corn can contaminate Eastern Gama Grass, a pasture forage, as well as sweet corn, though a new transgenic sweet corn has now been introduced on the market directly, so inadvertent corn contamination is not the only issue anymore for the human consumers of corn.

Transgenic alfalfa expands the use of transgenic feed for meat animals beyond corn and soybeans to include a major forage crop. Alfalfa is the fourth largest crop by acreage grown in the United States (behind, corn, soy, and wheat), and it is a rotation crop used to fix nitrogen, so it will work more intensively than mono-cropping to contaminate soil and other crops grown in that soil. Alfalfa is pollinated by bees, so plant pathologists say all alfalfa is likely to be turned into a transgenic weed within about five years---if transgenic contamination runs rampant. That means it will require herbicides more dangerous than Roundup (glyphosate) to control.

Crops resistant to 2,4-D are now being brought to market, and that will deliver 2,4-D residues in the resulting food. Further, as British researcher, Arpad Pusztai, put it, an animal fed transgenic food becomes a different animal. Yet, no long-term, multi-generational, independent, and reliably objective studies have been conducted to determine if transgenic food is safe or healthful for animals or humans. Meanwhile, farmer reports tell of damage to fertility and shorter lifespan through genetically-induced organ malfunction. No formal U.S. studies are available.

Because transgenic agriculture is controlled under patents, the patent-owner can legally (in the U.S.) determine what research is done, who does it, and whether or not the results are publicly released. As a matter of record, they have not released studies that could threaten their profits. They have relied on the "Doctrine of Substantial Equivalence" to argue against the need for studies about either toxicity or transgenic food safety. Because patent infringement is determined in the U.S. and elsewhere under a "strict liability" standard, those inadvertently and unintentionally possessing the patented genes without paying a royalty can be sued by the patent owner. In the well-known case of Percy Schmeiser in Saskatchewan, Canada, fifty years of seed breeding work was wiped out by contamination from the wind-blown spillage off a truck

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traveling on the road next to the Schmeiser farm. Monsanto was able to take possession of all of Schmeiser's work and also claim damages as the result of his seed saving. They have done similarly whenever their detectives have found contamination in a farmer's fields.

Often, settlement out of court has resulted because farmers could not afford the legal costs of a court fight, but well over 140 court cases have become part of the public record. Meanwhile, Monsanto's crops have trespassed on farmers' land and in the bodies of consumers without informed consent. This is why our Web site is called: www.EndTransgenicTrespass.org. Trespass occurs whenever the Monsanto genes are neither wanted nor exploited for the short-term and expedient financial gains they are designed to promote.

Not only do we seek relief under the Declaratory Judgment Act to stop infringement claims for undesirable and undesired contamination damage caused by the negligence of others, but our lawsuit puts transgenic agricultural technology on trial for the first time. We must make arguments to explain why we should have the protection we seek, and we will do that. We will present several arguments showing transgenic agriculture does not have public utility beyond short-term profits and the resulting political contributions and lobbying paychecks it enables.

Evidence will be presented to show transgenic food does not serve the public interest, nutritionally, environmentally, agronomically, or genetically. Short-term economic expediency has been enabled in violation of the public interest, and the public costs of that exploitation will be exposed. Not only do transgenic crops violate the property rights of farmers the same as if a neighbor's randy, fence-breaking bull impregnated your expensive purebred cattle, it violates the informed-consent health rights of consumers, because they have no way of knowing the long-term health impacts of even 1% transgenic contamination in food. Animal studies in other nations suggest transgenic food is most harmful after successive future generations. Thus, the damage is not as great now as appears likely for our great grandchildren. European studies on hamsters and mice show shocking genetic damage and shortened lives by the third generation.

These studies need to be duplicated and verified in the United States and elsewhere, and they should have been conducted before transgenic food was put onto the market anywhere. As we now know, through court discovery in another lawsuit, scientists at the FDA issued warnings when Monsanto's first transgenic crops were being readied for the market, but the Bush-Quayle administration decided to ignore the warnings. Overruling the concerns, they declared transgenic crops "generally recognized as safe." Since then, both Democratic and Republican Presidents have continued to ignore the threats and the unstudied issues related to transgenic food.

The Obama administration has permitted onto the market a range of new transgenic crops in 2011, including transgenic bluegrass and an ethanol corn designed to make its own self-digesting enzymes. Now in 2012, the release of 2,4-D resistant crops by Dow is certain to increase the use of that toxic herbicide, which is one of the most health endangering ingredients in the defoliant: Agent Orange. Need for 2,4-D resistant crops is expressed by agribusiness because weeds have become immune or resistant to Roundup (glyphosate) just as pests have also adapted in many places to the Bt pesticide now inserted into the DNA of a variety of crops. Many crops now include stacks of diversely-sourced genes serving multiple purposes with little understanding about the ways these genes work together to activate and deactivate plant traits. 46

For more information, see: www.EndTransgenicTrespass.org, www.pubpat.org, and plaintiff sites (The EndTransgenicTrespass site expects to launch as an independent site in March 2012)