MONSANTO

MONSANTO AUSTRALIA LIMITED
A.B.N. 86 006 725 560
12TH FLOOR, 600 ST KILDA ROAD
MELBOURNE VIC 3004
POSTAL ADDRESS: PO BOX 6051
ST KILDA ROAD CENTRAL
VICTORIA 8008, AUSTRALIA
PHONE 61 3 9522 7122
GENERAL FAX 61 3 9522 6122
www.monsanto.com.au

14 February 2018

Hon Matthew Swinbourn MLC
Chair
Standing Committee on Environment and Public Affairs
Legislative Council, Parliament House
PERTH WA 6000
env@parliament.wa.gov.au

Dear Mr Swinbourn,

Thank you for your invitation to provide a submission to your Committee's inquiry into mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified (GM) material.

It is Monsanto's position that mechanisms under existing common law are more than adequate to address farming disputes, including any potential unintended presence of an approved GM product in a non-GM crop.

Monsanto is an agriculture company that continues to work with Australian farmers to overcome local pest and weed issues through more than 30 years of research, development and commercialisation of genetically modified (GM) crops in Australia. GM cotton has been grown in Australia since 1996 and GM canola has been grown in Australia since 2008.

Growers in Western Australia have embraced genetically modified Roundup Ready® canola as an effective tool in their battle against weeds. In 2010 - its first commercial year in the state- WA growers planted 86,000 ha of GM canola. In 2017, growers planted more than 366,000 ha of GM canola, demonstrating the valuable role the technology plays in crop rotation and weed management. In addition to this, WA farmers have been pioneers of low and no-till farming, playing a significant role in improving soil health and reducing carbon emissions. The use of GM technology and its control of weeds in crop through glyphosate contributes to these no-till environmental sustainability efforts of WA farmers.

The safety of commercial GM crops in Australia is beyond doubt. The Office of the Gene Technology Regulator has assessed dozens of GM events, including in canola, as safe for people and the environment, as part of commercial release applications.

Most importantly and to the heart of the inquiry, the fact remains that not one farmer in WA (or Australia as a whole) has suffered economic loss due to the unintended presence of an approved GM product in a non-GM crop. It is unnecessary to propose a mechanism to compensate for circumstances that have not arisen and can be dealt with through common law in the same way as other farming disputes.

The ruling in the Supreme Court on the Marsh v Baxter (2013) case highlighted that Mr Marsh's organic operation should not have been de-certified by his organic certifier NASAA (the National Association for Sustainable Agriculture, Australia). Any economic loss borne by Mr Marsh was caused by the erroneous application of policy by his organic certifying body, not through the unintended presence of approved GM material.

Putting aside the impractical notion of introducing a scheme to address an issue that has not arisen and for which common law can provide effective remedies if required, there are further arguments as to why a compensation mechanism is unnecessary:

COEXISTENCE AND SEGREGATION WORK IN PRACTICE

Segregation of grain in WA is not new. Farmers and bulk handlers manage segregation for numerous types of grains for quality control to meet market demand. Just as bulk handlers manage standards to allow thresholds for grain quality, chemistry residue levels and other contaminants; industry standards are in place to allow for low level presence thresholds for approved GM in non-GM canola grain (0.9%). Global markets, including Europe, have established thresholds for GM presence in organic crops. WA farmers and bulk handlers have successfully handled over ten million tonnes of canola since GM canola was introduced and not one Australian export market has been lost due to unintended presence of approved GM in non-GM canola.

RECENTLY ISSUED GUIDANCE FOR RESPONDING TO CONTAMINATION IN THE EXPORT SUPPLY CHAIN

The Federal Government has recently issued guidance to organic growers on how to respond to situations involving the accidental introduction of prohibited substances or materials, including the presence of GM materials and organisms, in organic produce through Organic Notice 2018-01. This guidance makes it very clear that in cases of accidental introduction or necessary use of prohibited substances or materials on an organic production unit, where there is no persistent presence and effective treatments can be applied, decertification of a farm or part of a farm is not a valid action. This means that an organic business can continue to trade should a low level of unintended presence of an approved GM crop be detected.

Organic Notice 2018-01 also makes it very clear that organic growers can continue to sell their produce on the market where presence levels of prohibited substances does not exceed the requirements of Australian or exporting legislation. In the case of approved GM material in Australian food, for example, this labelling threshold requirement is 1%.

NO OTHER COMPENSATION SCHEMES IN AUSTRALIA

Both New South Wales and South Australia have contemplated similar compensation schemes and concluded that such a scheme is not necessary and does not fall within the remit of the State Government to pursue, given there is a national co-operative regulatory scheme for gene technology.

In addition, the 2005-06 Statutory Review of the *Gene Technology Act 2000* considered issues raised in submissions relating to strict liability, mandatory insurance and compensation under the Act for any damage caused by GMOs (or genetically modified organisms). The Independent Panel that led this

review concluded that a mandatory compensation scheme should not be introduced and that common law provides adequate protection for farmers. [1]

CONCLUSION

A compensation scheme is unwarranted and would penalise the WA agriculture industry unnecessarily. The potential for damage to non-GM farmers is limited due to the thresholds levels in place for GM product in a non-GM crop designed to protect markets and enable segregation. It is clear that GM crops and non-GM crops can co-exist without adverse impact to markets. This has been proven over the past 7 years of cultivation of GM canola in WA where effective segregation has meant domestic and export markets have taken both GM and non-GM canola without issue.

The Australian legal system is well placed to deal with disputes in the agricultural industry. By-passing the judicial system is contrary to the intention of the nation-wide GM regulatory scheme.

The recent changes to the organic standard means organic growers should not be decertified due to low levels of unintended presence of approved GM material. This is a welcome policy change which reflects the reality of farmers adopting new innovations and will help prevent further confusion and unjustified litigation in this space.

Western Australia remains one of the powerhouses of Australian agriculture and this is in no small part due to the innovation of growers and their desire for new technologies. We are keen to explore the potential for GM cotton in the north of the State and look forward to working with the progressive and innovative growers in that area. The opportunity for cotton in the Ord is only made possible through the incorporation of GM traits that would allow cotton to expand into these new growing areas. Cotton is a high value export crop that will value to the economy of WA.

We applaud the innumerable advances of the WA agricultural industry and look forward to continuing to work with the many stakeholders who recognise that GM technology is just one part of a modern and environmentally sustainable agriculture system.

Yours sincerely,

Tony May
MANAGING DIRECTOR
Monsanto Australia and New Zealand

---

1 http://webarchive.nla.gov.au/gov/20080724071616/http://health.gov.au/internet/main/publishing.nsf/Content/gene-gtmc.htm p.38-41 in Part 1 of the Review