

## **ENVIRONMENT AND PUBLIC AFFAIRS COMMITTEE**

### **WA PARLIAMENTARY INQUIRY ON:**

**"mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material, including approaches taken in Western Australia and by other jurisdictions and any other relevant matter."**

Dear Committee members. We are concerned by the a history of neglect of Non-GM farmers, possibly even indirect abuse.

1)The deeply flawed 2015 GIWA 2025 Strategy, which set GM farming in WA in motion, and which was drawn up without genuine consultation with GM-free farmers, gave no consideration to unfair financial impacts of inevitable GM contamination on the majority of WA farmers who are GM-free.

2) Similarly with the deeply flawed 2016 Biosecurity Strategy. The stakeholder list was unacceptably narrow, it was biased, and the legality of the Strategy remains in question. GM-free, organic and biodynamic farmers were not represented on the Biosecurity Council at the time of its drafting, and the Strategy denies them proper protection from GM contamination or harm and resulting financial loss. This is unacceptable.

3) Reportedly the previous Barnett Government also denied protection and promise of compensation when formally approached by worried non-GM farmers. This was also unacceptable.

4) It would be wrong for costs to be passed onto consumers, a great many of whom are uninformed / unwitting participants in what is in basically a GM food experiment.

**WE STRONGLY SUPPORT THE FARMER PROTECTION FUND**, the concept which the GM-free alliance of groups have developed to guide the inquiry committee.

The proposed system would provide for no-fault, independently managed, automatic,

compensation for proven economic loss and harm, for GM contamination in WA.

The scheme would be funded by a levy on GM seed sales, with the amount of the levy adjustable in response to greater or less demand on the Fund's resources - an incentive to minimise GM contamination.

This mirrors the "polluter pays" principle.

### **The Principles ;**

**"Segregation is impossible and contamination is inevitable,"** former WA Agriculture and Food Minister Terry Redman admitted to concerned farmers, health workers and consumers in 2009, when preparing to allow commercial GM canola and cotton in WA. Despite this admission, approval was given and since 2010 GM-free farmers have had to strictly keep GMOs off their land and out of their crops, while GM growers are allowed a 0.9% GM tolerance for GM contamination.

**Common Law was the only redress** in GM contamination cases. In Marsh vs Baxter, an organic farmer went to court seeking \$85,000 compensation for GM canola contamination on two thirds of his farm, and organic decertification. He lost and owed his GM neighbour \$800,000 in costs. This is not fair.

**Proving and documenting harm and extra costs** in a no fault system should be relatively easy. But other suggested models would mean proving fault and responsibility - suing in court (failed in Marsh vs Baxter), required insurance (delays, power imbalance, and insurers not offering cover), or direct billing for compensation from seed companies (open to delay, bullying and manipulation).

**Proving fault and responsibility** against GM companies and/or GM farmers (the Direct Billing Model) or insurance companies (the Insurance Compensation Model), would be difficult, costly, meet stout opposition and incur long delays.

### **Insurance Model:**

**Landholders should be compensated** quickly and without big costs so this model does not best serve their needs. Insurance companies now exclude cover for GM contamination as the risks are so uncertain. So it would be hard to compel the insurance industry, through legislation, to insure the risk. Some insurance policies say, for instance:

You are not insured for any loss or damage, actual or alleged legal liability caused by, arising from, or in connection with any of the following:

16. any liability caused by Genetically Modified Organism (GMO), such as, but not limited to:
- a) claims attributable to the genetic instability, inadequate characterisation or performance of GMOs, blending or contamination claims; or



b) loss or damage resulting from the unintentional, non-agreed or improper blending or mixing of GMOs with other organisms or products, or their pollination by GMOs, pure financial and/or economic claims, environmental impairment, ecological damage, or damage to biodiversity;

**An insurance scheme** would probably require claimants to identify GM farmers as at fault which would be difficult and divisive as it places blame. Where multiple GM farmers are growing GM crops in the area, the source of contamination may not be obvious.

**If compelled to insure**, companies would fight tooth and nail against paying out compensation claims. Delays, bullying and disempowerment are common among insurance claimants.

#### **Direct Billing :**

**This proposes to make the GM seed owning companies responsible** for the impacts of their seed and require them to pay any compensation claims for GM contamination.

**It would require claimants to identify a source of GM contamination** and neighbouring farmers as the culprits. This would be difficult and divisive as the source of contamination may not be obvious, especially where multiple GM farmers are growing a GM crop in the area.

**GM seed companies would fight tooth and nail** against paying out compensation claims. Their Technology User Agreements for the sale of GM seed already transfer their liability onto the GM growers who are their agents for the purpose of growing and marketing the GM crops.

**Delays on payouts, bullying and litigation** are likely to result from such claims, as North American corporate charges of unlicensed GM seed usage against farmers, seed cleaners and others have shown. Affected landholders need quick and cheap compensation so the fault-based direct-billing model would not serve their needs.

Sincerely,  
Paul & Meg Wilson