

Submission
David McFall
Kojonup WA
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Inquiry into mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material.

I submit this response as a concerned citizen and primary producer of WA in respect of the potential duress and economic loss that GMO product material has on my rights to farm non gmo and market my product as non gmo.

Matter of principle

GMO material needs to be classified as a 'High impact organism' as defined by the States Biosecurity and Agricultural Management Act 2007 [BAM] as it has the potential to have an adverse effect on another organism, human beings cultural and property rights, the environment and general rights and freedoms of the non gmo agricultural sector to undertake commercial agricultural activity 'free' of gmo contamination threat.

BAM pg 8 definitions - 'high impact organism means a prohibited organism that has been prescribed as a high impact organism';

GMO material clearly fits this definition and the Objects and functions of the BAM as extracted below:

**Biosecurity and Agriculture Management
Act 2007**

An Act to provide for —

- the control of certain organisms; and
- the use of agricultural and veterinary chemicals; and
- the identification and attainment of standards of quality and safety for agricultural products, animal feeds, fertilisers and other substances and things; and
- the establishment of a Declared Pest Account, a Modified Penalties Revenue Account and accounts for industry funding schemes; and
- related matters. [pg1]

Furthermore:

3. Objects of Act

(1) The objects of this Act are to provide effective biosecurity and agriculture management for the State by providing the means to —

(a) control the entry, establishment, spread and impact of organisms that have or may have an adverse effect on —

(i) other organisms; or

(ii) human beings; or

(iii) the environment or part of the environment; or

(iv) agricultural activities, fishing or pearling activities, or related commercial activities, carried on, or intended to be carried on, in the State or part of the State;

and

(b) control the use of agricultural and veterinary chemicals;

and

(c) establish standards to ensure the safety and quality of agricultural products; and

(d) raise funds for biosecurity-related purposes. [pg2]

Ministerial obligations are also consistent with the objects, as cited below:

12. Prohibited organisms

(1) The Minister may declare that an organism of a kind specified or described in the declaration is a prohibited organism if there are reasonable grounds for believing that the organism —

(a) has or may have an adverse effect on —

(i) another organism; or

(ii) human beings; or

(iii) the environment or part of the environment; or

(iv) agricultural activities, fishing or pearling activities, or related commercial activities, carried on, or intended to be carried on, in the State or part of the State;

or

(b) may have an adverse effect on any of those things if it were present in the State or part of the State, or if it were present in the State or the part in greater numbers or to a greater extent. [pg19]

I believe the principle of 'polluter pays' is a founding principle that should be the basis for establishing and regulating the GM industry with a full chain of responsibility put in place from the supplier/grower/ carrier/ handler to processor i.e. a **GMO QA standard that encompasses the whole chain of responsibility relating to its handling.**

With adequate controls and standards of handling in place the matter of compensation [and its access pathway for effected parties] can be clearer developed.

Certainly the BAM act has a mechanism in place that could be 'tweaked' to regulate GM material.

Such inclusion is in line with preventing [leakage/ contamination etc] of GM material and/or product onto unwilling participants and was touted by as a gm industry commitment to the people of WA as 'segregation' and 'co-existence' have been advocated as achievable undertakings by the industry and WA Parliamentary Ministers alike.

The fact of the Parliamentary inquiry infers that this capability was never achievable.

In determining a mechanism for compensation for contamination I believe the whole industry and matters relating to its regulatory allowance/ operational experience and future handling options require a greater commission of inquiry.

Before the release of any further material the commercial release 'trial' must be fully evaluated.

Lawful recourse.

Common law is not an appropriate mechanism for determining compensation. As evidence by the Marsh v's Baxter case two neighbours conducted a very expensive, public and bitter legal case to determine a simple contamination matter.

The expense and duress of this pathway restricts 'fair' compensation for a simple matter of recovering economic loss for an adverse effect – such as GM contamination.

I feel the laws determining a full responsibility of the user and legal liability on that user and the full GM material handling chain be put in place.

Licensing the growing and handling of high impact gm product will establish an industry standard that is transparent and traceable across all sectors ensuring the highest integrity and due diligence is maintained- and non gmo/ consumer rights protected.

Appropriate penalties be established and regularly authority framework is a necessary requirement.

Local Government and/or other environmental agencies could also play a role in restricting the contamination of gm product and the setting up of appropriate compensation mechanisms.

For example a clean up order on an individual and/or group of growers / processors etc can be implemented under such law [or once again use the BAM mechanism].

Yours

<i>David McFall</i>

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