

EARTHJUSTICE
THE CENTER FOR FOOD SAFETY
FRIENDS OF THE EARTH
KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE
PESTICIDE ACTION NETWORK NORTH AMERICA

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JUDGE ORDERS DISCLOSURE OF GENETICALLY MODIFIED "BIOPHARM" CROP LOCATIONS

Ruling an Unprecedented Victory for Citizen Oversight of Biotech Experiments

Honolulu, HI-A federal district court judge yesterday issued a landmark ruling ordering the United States Department of Agriculture to disclose the locations of open-air field tests in Hawai'i of "biopharmaceutical" crops genetically modified to produce industrial chemicals and drugs. The ruling came in a lawsuit filed by Earthjustice on behalf of the Center for Food Safety, Friends of the Earth, Pesticide Action Network North America, and KAHEA: The Hawaiian-Environmental Alliance, seeking to compel USDA to conduct long-overdue reviews of the environmental and public health impacts of these activities. The USDA and biotech industry had been fiercely resisting disclosing the locations of the test plots to anyone, citing fears of "espionage," "vandalism," and "civil unrest." However, District Court Judge David A. Ezra ordered USDA to provide the plaintiffs with the location information and ordered that the information would become public in 90 days unless USDA came up with better evidence of specific harm.

"Biopharming could have disastrous effects on human health and the environment and should not be shielded from public scrutiny," said Paul Achitoff, an Earthjustice attorney. "At least now plaintiffs can find out if these crops are being grown near conventional crops that can be cross-pollinated, in ecologically sensitive areas, or near schools or homes."

Judge Ezra's ruling affirmed a previous order by Magistrate Judge Barry M. Kurren finding that USDA and the industry "fell far short" of demonstrating that specific harm to the field tests would result from disclosure of their locations. On appeal, Judge Ezra agreed that the "isolated incidents" raised by defendants failed to make a "particularized showing" of harm.

"Growing genetically engineered food crops to produce chemicals or drugs is a bad idea by itself," said Joe Mendelson of CFS. "But hiding the facts about these crops from the people who could be most harmed by them is simply indefensible."

"Biopharming" involves genetic alteration of food crops consumed by humans and livestock, such as corn and soybeans, to produce industrial chemicals and drugs, including contraceptives, hormones, vaccines, and other potent, biologically active substances. The crops are grown outdoors in open fields, potentially exposing humans and the environment to contamination, and are virtually indistinguishable from edible varieties.

Hawai`i has been the site of more than 4,000 open-air field tests of genetically engineered crops, including biopharmaceuticals. The tests, conducted by corporate agribusiness and industrial chemical giants such as Monsanto, Prodigene, DuPont, and Dow, produce crops that have not been approved for human or animal consumption, or for general release into the environment. Despite 12 years of open-air testing, not one biopharmed drug has been approved by the Food and Drug Administration.

Genetically engineered crops have contaminated conventional food crops, as in the StarLink fiasco, where genetically engineered corn not approved for human consumption ended up in dozens of products on supermarket shelves and had to be recalled. There have been potentially disastrous slip-ups in biopharm field tests: In 2002, USDA had to quarantine and destroy 500,000 bushels of Nebraska soybeans meant for human consumption because the crop had been contaminated with corn engineered to produce a pig vaccine. That same year, potential contamination led to the destruction of 155 acres of conventional corn in Iowa. The grower in both instances, Prodigene, is currently conducting open-air tests in Hawai`i.

"It is unconscionable for governments to allow corporations to conceal potentially problematic activities and avoid public oversight. Biopharming poses particularly serious threats to Hawaii's fragile biodiversity," said Cha Smith, executive director of KAHEA.

"Almost everything about the regulation of gene-altered crops suggests that the federal agencies are far more responsive to industry than to the public," said Skip Spitzer of plaintiff Pesticide Action Network North America (PANNA). "That the court has to step in to force disclosure of such basic information highlights that problems like biopharming come from big agribusiness having too much control over our food."

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