

Saskatchewan Organic Farmers Take Biotech Giants to Court!



Saskatchewan certified organic farmers are fighting for the right to farm GMO free and the right to eat GMO free!

Genetically engineered canola was introduced as a commercial crop in Canada in 1995 and 1996 by Monsanto and Aventis (now Bayer). GMO canola quickly began to contaminate conventional canola. In December 2002, Monsanto applied simultaneously to the Canadian and American regulatory systems for approval to release its GMO Roundup Ready wheat as a commercial crop.

We take them to Court

The certified organic farmers of Saskatchewan, through the Saskatchewan Organic Directorate's Organic Agriculture Protection Fund (OAPF), have launched a class action lawsuit to get compensation for the loss of organic canola as a crop and to get an injunction to stop genetically engineered (GE) wheat.

No organic farmers means no organic food

We simply cannot grow certified organic canola anymore. Even pedigreed seed stock is contaminated with Monsanto's GE Roundup Ready and Bayer's GE Liberty Link canola! We've lost one valuable crop already. If wheat were to be contaminated, prairie organic farms would not survive.

We push Monsanto to back off GE Wheat!

In June 2004 Monsanto withdrew its application for regulatory approval of Roundup Ready wheat. This is in no small part due to our legal action and widespread citizens' opposition to GE wheat.

With ownership comes responsibility, we say.

Our class action is now focused on biotech companies' liability for GE canola contamination. If biotech companies are entitled to monopoly rights over their patented genes wherever they occur, according to the Canadian Supreme Court Schmeiser vs. Monsanto decision, then we assert that these companies must also be liable for the losses due to the unwanted presence of these patented genes.

The Legal Action

We filed the statement of claim under the Class Actions Act of Saskatchewan against Monsanto and Aventis (now Bayer) for damages caused by the introduction of GE canola and for an injunction to stop GE wheat on January 10, 2002.

Our claim alleges that when Aventis (Bayer) and Monsanto introduced their GE canola they knew or ought to have known of this crop's ability to cross-pollinate, spread and contaminate the environment, including organic fields. The companies wish to profit from their enterprises, but they also must be held liable for the consequences of their actions.

Our preliminary economic analysis shows that losses due to the introduction of GE canola could be well over \$14 million in Saskatchewan alone, and that if GE wheat were to be introduced it would spell the demise of certified organic agriculture on the prairies.

On February 2, 2004 we amended our statement of claim to include compensation for the ongoing costs of removing genetically engineered canola from certified organic farmers' fields and seed supplies.

On June 19, 2004 Monsanto withdrew its application for regulatory approval of Roundup Ready wheat in Canada and the USA, after having announced they were dropping plans to commercialize the crop. As a result we withdrew our injunction application against Roundup Ready wheat, since it was no longer an imminent threat. However, we remain vigilant and are prepared to act if Monsanto or any other company moves to introduce GE wheat.

Our class certification hearing was held in Saskatoon, Saskatchewan November 1 to 3, 2004. Class certification is required in order for this case to proceed as a class action under the Saskatchewan Class Actions Act.

On May 11, 2005 the Court of Queen's Bench judge decision was released, denying us certification. We are appealing this decision at the Saskatchewan Court of Appeal. Leave to Appeal was granted on August 29, 2005. If our appeal is successful we will go to trial.

If we are ultimately successful at trial, companies that introduce GMO crops would have to take measures to prevent contamination of other crops, and would be liable for the market loss and/or clean-up costs if contamination occurred in spite of these measures. You can follow the development of our case by checking our website at www.saskorganic.com

Saskatchewan Organic Directorate

SOD's vision is *Food for Life*. Our mission is *to champion organic agriculture in a democratic manner*.



SOD provides an umbrella organization that unites the province's producers, processors, buyers, traders, certifiers and consumers of certified organic food and fibre. It is an incorporated non-profit organization but is not a registered charity.

SOD established the [Organic Agriculture Protection Fund](#) (SOD OAPF) to raise funds and facilitate the legal action.

The Genetic Revolution: Putting Biotechnology in its Place, a benefit lecture given by Dr. David Suzuki for the SOD Organic Agriculture Protection Fund, and excerpts from ***Battling the Biotech Gene Giants***, a documentary about our legal action against Monsanto and Bayer, by film-maker Ian Mauro, is now available on DVD.

Price in Canada is \$25.00 (including postage). Outside of Canada, \$30.00.

If you donate \$100 or more to the OAPF you may request a free copy of the DVD.

You can order on line from our website, or send a cheque or fax to our office, Box 130, Canwood, SK. S0J 0K0



All proceeds from sales of this DVD support our legal action.

What people are saying:

"What organic farmers have said is genetically engineered organisms represent a kind of technology we don't want to incorporate into our food growing and I support that." - **Dr. David Suzuki**, April 25, 2005.

OCIA International Standards and Materials Co-ordinator, Brian Kozisek says about the case, "It will also set a precedent in the U.S. Our agriculture systems are closely tied." He added, there have been other court actions over GM crop issues in the States, but nothing on the scale of the Saskatchewan lawsuit. - **Saskatoon Star Phoenix**, July 29, 2003

"There are several lessons that Britain can, and should, learn from the Canadian experience. The most important is that "co-existence" - a framework to ensure that organic and conventional farming can survive and prosper alongside GM farming - is a mirage. In Saskatchewan, organic oilseed rape (which the Canadians call canola) has been wiped out by cross-contamination from Monsanto's "Roundup Ready" GM canola." - **Micheal Meacher**, former **UK Environment Minister**, Aug. 6, 2003

"[t]he issue of corporate responsibility for wrongs is now squarely before the courts, in Hoffman v. Monsanto Canada Inc. This case has been described as a potential "tidal wave" compared to the "legal ripple" of Schmeiser." - **Jane Glenn**, **Professor of Law, McGill University, Montreal, Canada**, "Genetically Modified Crops in Canada: Rights and Wrongs" 2003 Journal of Environmental Law & Practice.

"The decision in *Hoffman Farms* will be eagerly awaited, and may have major implications for plans to license GM crops for commercial exploitation in the UK. Whatever the outcome, the Canadian litigation will throw into sharp relief the issues surrounding environmental liability for GMO contamination, and the potential use of tort law to

modulate property rights and risk where the introduction of GM crops is involved." - **Christopher Rodgers**, **Professor of Law, University of Wales, Aberystwyth, U.K.**, "Liability for the Release of GMOs into the Environment: Exploring the Boundaries of Nuisance" 2003 *Cambridge Law Journal*.

"The Kootenay Co-op is a large, member-owned natural food co-op which has sold organic foods and products in our community for 27 years. we are extremely concerned about GE foods and wish to pledge our support for every organic farmer's right to protect their livelihoods and every person's right to eat food which is clean, healthy and uncontaminated." - **Kootenay Country Store Co-op, Nelson, B.C.**

"If farmers don't take a stand on limits to patenting and how biotechnology is used to alter seeds such as wheat; we risk losing market access, loss of income, loss of choice; as well as losing control over what we produce, how we produce it, what value it has, and who will buy it." - **Marc Loiselle, OAPF Committee**, Dec. 8 2001

Join us in the fight - donate now!

The Organic Agriculture Protection Fund was able to bring our legal action this far thanks to generous contributions from people like you. We need your on-going support for the duration of this history-making legal action.

Mail your cheque, money order or credit card donation form to SOD OAPF. Or if you prefer, donate online through PayPal. Simply click on the "To Donate" button on our website and follow the instructions. Donations of \$20.00 or less will be receipted on request. All donations over \$20.00 will be receipted. We are counting on your support so we can hope to win.

**Together, we can make a difference.
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