

From: Bill Duesing

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To: CT Environmental Leader

Subject: Press Release: FAMILY FARMERS AMPLIFY COMPLAINT AGAINST MONSANTO'S GMOs, REINFORCING THEIR ARGUMENTS WITH TWO DOZEN ADDITIONAL PLAINTIFFS
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Dear Connecticut Friends of the Environment,

CT NOFA, the Northeast Organic Farming Association of Connecticut, is pleased to join Connecticut's Comstock Ferre, LLC (celebrating its 200th anniversary as a seed company in Wethersfield this Sunday) and over 80 other farming, food, environmental organizations and individual farmers from all over the country and from India, in suing Monsanto to prevent the company from suing our members if their seeds or crops become contaminated by Monsanto's genetically modified genes. Monsanto has done that in the past. See the press release below for details.

The news about the environmental and human health effects of genetically modified seeds gets worse almost every day. This is especially true for the majority of GMOs which resist a specific herbicide (thereby encouraging more use of the herbicide and the development of resistant weeds), make the plant create a pesticide in all of its cells, or have both traits.

While much of the world rejects these seeds and the foods made from them, our government fully accepts them and tries to push them on the rest of the world.

Hopefully this suit will raise the awareness here and all over the country about the dangers of GMOs, slow the pollution they are spreading into the seeds which sustain us and increase the pressure for labeling of GMOs in the 60 percent of non-organic food which now contains genetically modified ingredients.

**FAMILY FARMERS AMPLIFY COMPLAINT AGAINST MONSANTO'S
GMOs, REINFORCING THEIR ARGUMENTS WITH TWO DOZEN ADDITIONAL
PLAINTIFFS:**

**Monsanto's Failure to Provide Binding Legal Covenant To Protect Family Farmers Threatened by
GMO Contamination Necessitates Amended Complaint**

NEW YORK - June 1, 2011 - New threats by Monsanto have led to the filing of an amended complaint [link] by the Public Patent Foundation (PUBPAT) in its suit on behalf of family farmers, seed businesses, and organic agricultural organizations challenging Monsanto's patents on genetically modified seed. Twenty-three new plaintiffs have joined with the original 60 in the amended complaint, bringing the total number represented in the case to 83. The plaintiffs in the suit, titled Organic Seed Growers and Trade Association (OSGATA), et al. v. Monsanto and pending in the Southern District of New York, now include 36 family farmer, food, agricultural research, food safety, and environmental organizations representing hundreds of thousands of members including several thousand certified organic, biodynamic, or otherwise non-transgenic family farmers

"Our clients don't want a fight with Monsanto, they just want to be protected from the threat they will be contaminated by Monsanto's genetically modified seed and then be accused of patent infringement," said PUBPAT Executive Director Daniel B. Ravicher. "We asked Monsanto to give our clients reassurance they wouldn't do such a thing, and in response they chose instead to reiterate the same implicit threat to organic agriculture made in the past."

Soon after the March filing of the lawsuit, Monsanto issued a statement saying they would not assert their patents against farmers who suffer "trace" amounts of transgenic contamination. In response, and in the hope the matter could be resolved out of court, PUBPAT attorneys wrote Monsanto's attorneys asking the company to make its promise legally binding. Monsanto responded to PUBPAT's request by hiring former solicitor general, Seth P. Waxman, a partner in the Washington, D.C. office of WilmerHale, who rejected PUBPAT's request and instead confirmed Monsanto may indeed make claims of patent infringement against organic farmers who become contaminated by Monsanto's genetically modified seed. Copies of both letters are available as exhibits at the end of the amended complaint [\[link\]](#).

"Monsanto's letter was an empty, indefensible, and self-evident evasion showing they are only interested in spinning propaganda without taking serious steps to resolve the problem created for organic and non-transgenic agriculture," said one of the co-plaintiffs in the suit, Don Patterson of Virginia. "With the Monsanto letter signed by Waxman, the company rolled out their biggest legal cannon, but they fired off only fluffy wadding and smoke," as he views it. "The letter shows Monsanto wanting to protect their freedom to threaten farmers with patent infringement suits," he states; "Both the threats and the lawsuits are clearly important to their marketing strategy and business model."

"Despite their empty propaganda to the contrary, they plainly do not want to give up these tactics," Patterson asserts. "Monsanto has collected multiple millions of dollars in settlements often from family farmers without the resources to defend themselves," he reports; "Too many have had to settle because they could not afford to fight."

"The serious issues being engaged in this case require a constructive and socially-acceptable response from the defendant in the public interest," adds Maine farmer Jim Gerritsen, President of OSGATA, the lead plaintiff in the suit. "In the absence of that, we reassert the essential importance of the arguments stated in March and reinforced now by the additional evidence of the Monsanto intransigence. Monsanto's utter failure to act reasonably to address our concerns has only reaffirmed the need for our lawsuit."

"We don't think we are asking too much to want assurance that if Monsanto's transgenic genes contaminate our crops we will not be sued by Monsanto," adds Iowa organic dairy farmer Francis Thicke, owner of plaintiff Radiance Dairy; "It is bad enough that we face the threat of contamination of our organic and non-transgenic crops. The least Monsanto can do is give us assurance that they won't sue us for their own genetic trespass."

The amended Complaint elaborates a fear tangibly vexing many family farmers: "Monsanto continued in the statement to perversely characterize this suit as an 'attack,' when Plaintiffs seek no money from and no injunction against them. All Plaintiffs seek is peace of mind if they are ever contaminated by Monsanto's transgenic seed, the company could never sue them for patent

infringement. This is not an attack by the Plaintiffs and to characterize it that way only further evidences Monsanto's aggressive and threatening attitude with respect to its patents. Thus, the statement made by Monsanto in response to this suit has only served to heighten Plaintiff's fear that Monsanto will seek to enforce its patents against them should they ever be contaminated by Monsanto's transgenic seed."

"It is outrageous that our entire farm, family business, and livelihood could be at risk because of Monsanto's backward and oppressive response and enforcement towards farmers in regards to transgenic pollen drift, unasked for and unwanted-and the subsequent results in fields and farms," says Ruth Chantry of Common Good Farm in Nebraska; "Any transgenic pollen drift that would ever come onto our farm is of great detriment to us, and as such, it is an invasion upon and a contamination of our crops, the multi-species habitat we are assisting and creating here-and to the integrity of how we are farming organically & Biodynamically."

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The request for court protection through a declaratory judgment is a primary objective of the case. The suit also argues the invalidity of Monsanto's transgenic Roundup Ready patents under both statute and case law precedent requiring patented products to demonstrate clear social utility and not be dangerous to health. Four basic contentions, ranging from the patent invalidity, through the establishment of proper requirements for a finding of patent infringement to patent unenforceability and Monsanto's lack of entitlement to collect damages were asserted in the original complaint filed March 29, 2011. Court relief is being sought to protect organic farmers and other growers of non-transgenic crops from liability should unwanted transgenic contamination occur in their fields. The response to the PubPat letter of April 18 was received on April 28 from the Monsanto attorneys. When no binding legal covenant was provided, Ravicher states, the filing of the amended complaint was required to make the defendant's position fully clear. "The reply from Monsanto is insufficient and unsatisfactory to protect the interests of my clients," said Ravicher.

"If Organic farmers, seed growers, and companies have no assurance that technology they have never asked for, never signed a licensing agreement to use, have no desire to be a part of, and in fact, go to great lengths to avoid, can still trespass on their farms and subject them to a lawsuit by the patent holder who seemingly escapes all liability for that trespass, then it is not only morally wrong, ethically unjust, but also legally perverse," states Marty Mesh, Executive Director of Florida Organic Growers.

The biotech impact on the quality, safety, and nutritional integrity of food will be brought up for public and courtroom scrutiny, so that the truth can be determined between their arguments and ours, states Ravicher; "If Monsanto is proud of what they do, they should be happy for the opportunity to present the evidence in support of their ideal." To help stimulate and promote objective debate between the differing agricultural philosophies, the new group of plaintiffs has joined the case as part of today's filing. Included among these are groups long committed to food safety and environmental responsibility in the public interest. Some of the new plaintiffs have been prominent in other legal actions and advocacy against Monsanto's efforts to aggressively and monopolistically assert its chemically and transgenically-dependent agricultural system.

In addition to supplementing the complaint with Monsanto's most recent clarifying statement confirming its threat to the plaintiffs and GMO-free agriculture, the new group of 23 organizations, seed companies, farms and individual farmers includes fourteen organizations: Weston A. Price Foundation, Center for Food Safety, Beyond Pesticides, Northeast Organic Farming Association of

Rhode Island, Northeast Organic Farming Association of New Hampshire, Northeast Organic Farming Association of Connecticut, Northeast Organic Farming Association of New York, Western Organic Dairy Producers Alliance, Manitoba Organic Alliance, Michael Fields Agricultural Institute (Wisconsin), Midwest Organic Dairy Producers Alliance, Florida Organic Growers, Peace River Organic Producers Association (Alberta and British Columbia) and Union Paysanne (Quebec); two seed companies: Seed We Need (Montana), Wild Garden Seed (Oregon); and seven farms or individual farmers: Common Good Farm, LLC (Nebraska), American Buffalo Company (Nebraska), Full Moon Farm, Inc. (Vermont), Radiance Dairy (Iowa), Brian L. Wickert (Wisconsin), Bruce Drinkman (Wisconsin), and Murray Bast (Ontario).

These plaintiffs join the 60 plaintiffs from the original filing of the lawsuit in March including twenty-two organizations: Organic Seed Growers and Trade Association; Organic Crop Improvement Association International, Inc. (OCIA); OCIA Research and Education, Inc.; The Cornucopia Institute; Demeter Association, Inc.; Navdanya International; Maine Organic Farmers and Gardeners Association; Northeast Organic Farming Association/Massachusetts Chapter, Inc.; Northeast Organic Farming Association of Vermont; Rural Vermont; Ohio Ecological Food & Farm Association; Southeast Iowa Organic Association; Northern Plains Sustainable Agriculture Society; Mendocino Organic Network (California); Northeast Organic Dairy Producers Alliance; Canadian Organic Growers; Family Farmer Seed Cooperative; Sustainable Living Systems (Montana); Global Organic Alliance; Food Democracy Now!; Family Farm Defenders, Inc.; Farm-to-Consumer Legal Defense Fund; twelve seed companies: FEDCO Seeds, Inc. (Maine); Adaptive Seeds, LLC (Oregon); Sow True Seed (North Carolina); Southern Exposure Seed Exchange (Virginia); Mumm's Sprouting Seeds (Saskatchewan); Baker Creek Heirloom Seed Co., LLC (Missouri); Comstock, Ferre & Co. LLC (Connecticut); Seedkeepers, LLC (California); Siskiyou Seeds (Oregon); Countryside Organics (Virginia); Cuatro Puertas (New Mexico); Interlake Forage Seeds, Ltd. (Manitoba); and, twenty-six farms and farmers: Alba Ranch (Kansas); Wild Plum Farm (Montana); Gratitude Gardens (Washington); Richard Everett Farm, LLC (Nebraska); Philadelphia Community Farm, Inc. (Wisconsin); Genesis Farm (New Jersey); Chispas Farms, LLC (New Mexico); Kirschenmann Family Farms, Inc. (North Dakota); Midheaven Farms (Minnesota); Koskan Farms (South Dakota); California Cloverleaf Farms; North Outback Farm (North Dakota); Taylor Farms, Inc. (Utah); Jardin del Alma (New Mexico); Ron Gargas Organic Farms (Pennsylvania); Abundant Acres (Missouri); T & D Willey Farms (California); Quinella Ranch (Saskatchewan); Nature's Way Farm, Ltd. (Alberta); Levke and Peter Eggers Farm (Alberta); Frey Vineyards, Ltd. (California); Bryce Stephens (Kansas); Chuck Noble (South Dakota); LaRhea Pepper (Texas); Paul Romero (New Mexico); and, Donald Wright Patterson, Jr. (Virginia).

In the face of the established historical record of over 100 lawsuits brought against farmers, the amended PUBPAT complaint asserts, "Monsanto implicitly acknowledges that its transgenic seeds can contaminate the property of non-transgenic farmers," but in its asserted "commitment" to not sue farmers over "inadvertent," and "trace" amounts of contamination, the company fails to define either term. Therefore, the Complaint argues, "the clear implication is that Monsanto indeed intends to assert its transgenic seed patents against certified organic and non-transgenic farmers who come to possess more than 'trace amounts' of Monsanto's transgenic seed, even if it is not their fault."

When Monsanto sued family farmer Percy Schmeiser in Canada over contamination caused by transgenic seed blown off a passing neighbor's truck, it cost him a half million dollars to fight them, and he had to mortgage his farm to raise the money, Patterson recalls. In the process, he lost control over 50 years of his own traditional, non-transgenic seed development work, according to Patterson

and published reports telling the Schmeiser story. "Monsanto reportedly spent \$4 million on their case against Schmeiser," Patterson says. Percy Schmeiser told him Monsanto had 19 lawyers at one point in the courtroom up against his own single lawyer. "In the school yard and in the NFL, that is called 'piling on,'" he concludes.

"The issues raised in the lawsuit are critical, not just to organic farmers and others who do not want to grow genetically-modified (transgenic) crops," Gerritsen says, but "also to the safety of food and everyone who eats-and that includes everyone concerned about environmental protection and public health." As Gerritsen sees the lawsuit, "This is not just a minor dispute between a few family farmers and a powerful corporation accustomed to getting its own way; it is a debate over who offers the best and most responsible way to feed the people of the world over the decades and centuries ahead." Monsanto offers an expedient short-cut with enormous long-term risks and consequences for public health and environmental degradation, he says; "This, we intend to prove in court."

"We believe Monsanto has anti-competitively and improperly abused their rights under patent law and have used their patents to gain monopoly dominance over major sectors of the seed industry," said lawyer Ravicher; "They have gained control over as much as 90% of the U.S. corn and soybean seed market." Independent research on the safety of transgenic food has not been permitted because Monsanto has used its patent control to prevent that, Ravicher adds, though he notes some information has begun to emerge despite the tight control exercised. Often the most illuminating research findings have come from other nations or from U.S. researchers who have retired from positions where they were formerly under contractual constraint imposed by Monsanto and other biotech companies, Ravicher reports. "The operation of the patent system against the public interest will be an important issue to be examined as part of this case," Ravicher affirms; "In arguing the invalidity of Monsanto's Roundup Ready patents, we will show how the Patent and Trademark Office has too readily and even profligately served the interest of politically-influential corporations at the expense of the public."

"The USDA, the White House, and the Congress have evaded responsibility to protect the public from the potential and unstudied dangers of transgenic food, not even requiring careful, long-term, independent testing nor the clear GMO labeling long-demanded by the overwhelming majority of U.S. citizens," states Bryce Stephens, a Kansas wheat farmer, who is OSGATA's vice-president. "President Obama said he wanted to see mandatory GMO labeling during his 2008 presidential campaign, but he has not provided it," Stephens reminds us. "We need someone to act in the public's defense if our officials will not," he says, and that is part of the motivation for Stephens's decision to join the case as an individual plaintiff alongside his participation in plaintiff organizations.

Stephens is also a spokesman for the second leading plaintiff in the case, the Organic Crop Improvement Association-International (OCIA). He points out, "Long-term, fully objective, independent, multi-generational studies about the safety of transgenic food are scarce world-wide and virtually non-existent in the United States; studies have not been done in the U.S. to replicate, verify, or rebut the findings of studies undertaken in other nations."

"When GMO crops were first given the green light to enter the market in 1992 by the Bush-Quayle administration, they were declared 'Generally Recognized As Safe (GRAS)' based almost entirely on internal industry studies and industry-sponsored research done under controlling company contract," Stephens states. "Given the serious potential long-term dangers and only minimally and

briefly-studied risks, this was reprehensibly irresponsible, and the government has not shown any more prudence over the years since 1992," Stephens charges. "With the long-term health consequences of GMO food yet to be understood and in the absence of objective studies, we have all been involuntarily co-opted into a giant biotech industry experiment," he concludes; "Our citizens and the people of the world deserve better than that."

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