

Congress of the United States
Washington, DC 20510

June 21, 2010

The Honorable Thomas Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Dear Secretary Vilsack:

We have serious concerns regarding the Draft Environmental Impact Statement (DEIS) for genetically engineered (GE) alfalfa. We have concluded that USDA's preliminary finding of "No Significant Impact" cannot be justified and we call on you to correct the serious deficiencies in the DEIS and to deny the request for deregulated GE alfalfa.

In the DEIS, USDA- APHIS concludes that contamination of non-GE alfalfa is highly unlikely, and if it does occur, the impacts would be inconsequential. That conclusion is based on the fact that the alfalfa is typically harvested prior to maturity, negating the potential of cross-pollination and contamination. Even if harvest occurs after maturity, APHIS contends that the required isolation distances will insure that the contamination is contained. These conclusions are not supported by the evidence or the science.

The DEIS acknowledges that gene flow contamination will likely occur and goes on to elaborate on the conditions which increase that possibility: proximity of fields, pest management strategies, feral alfalfa corridors, movement of honey bees and overstocking of pollinators. The DEIS further acknowledges that honey bees, the primary pollinators of alfalfa, travel distances far in excess of the required isolation distances. While APHIS maintains that contamination is unlikely, they contradict their own conclusion by determining that glyphosate tolerant alfalfa deregulation will lead to a shift to larger farms as alfalfa producers seek more land to avoid contamination.

During the two years that GE alfalfa was permitted to be grown commercially, approximately 200,000 acres of Roundup Ready alfalfa were planted – amounting to less than 1% of the total alfalfa acres in the U.S. Cal/West Seeds, a major alfalfa seed exporter, reported that 12% of 200+ lots and all 6 of its research lots had tested positive for GE alfalfa in 2008 and that preliminary data indicated that 30% of 10 seed stock lots had tested positive in 2009. Additionally, Dairyland Seed Company, a major alfalfa seed producer and exporter, reported contamination of 11-16 sites at distances of up to 1 ½ miles – far beyond the recommended 900 foot isolation distances.

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We believe that GE contamination will occur and it will result in significant economic harm to both the alfalfa seed and forage export markets and to the organic dairy industry. APHIS has ignored the potential economic harm, concluding that GE sensitivity was too speculative while blaming farmers and the organic industry for its failure to provide evidence of consumer resistance and consequent economic loss.

There is nothing speculative regarding the loss of foreign alfalfa seed and forage markets. According to the Foreign Agriculture Service at USDA, the alfalfa forage exports in 2007 amounted to \$159 million to GE sensitive markets in Japan, Korea and Taiwan. Saudi Arabia, the largest importer of alfalfa seed, banned the import and/or use of GE seeds in 2004. Saudi Arabia imported \$38 million of U.S. alfalfa seeds in 2007. Based on those figures, alfalfa producers could lose at least \$197 million annually in alfalfa seed and forage exports as a result of GE alfalfa deregulation.

Today, U.S. exports of biotech corn and soybeans, as well as other agriculture products that contain or may have been contaminated with biotech ingredients continue to face a wide array of trade barriers. Several U.S. trading partners have employed restrictive measures or imposed bans on some U.S. agricultural products over health and environmental safety concerns related to biotechnology.

We believe that organic dairy producers will also suffer significant economic losses as a result of GE alfalfa deregulation. APHIS contends that organic certification is process-based and contamination would not impact certification. This conclusion is contradicted by organic industry leaders. The CROPP Cooperative processes and markets organic dairy and meat products for 941 producers in 28 states under the "Organic Valley" brand, which in 2007 had annual sales of \$333 million and a growth rate of 38% between 2005-2007. George Siemans, CROPP Cooperative CEO, has stated that if GE alfalfa results in the contamination of certified organic alfalfa stands or seed stock, it will devastate the organic farmers who market their milk as organic. Albert Straus of the Straus Family Creamery in Marshall California has stated that contamination of alfalfa forage would result in the widespread loss of organic and non-GE certifications and have a devastating impact on organic dairy producers and their ability to acquire organic forage. Organic feed is already expensive and in short supply in this country, if organic alfalfa becomes contaminated by GE alfalfa, it would greatly compound the feed shortage and increase the operating costs for organic dairy farms. This comes just as organic dairy producers are proving that they can be competitive with conventional production and are finding ways to further reduce their operating costs.

Consumers today respect and rely on what the USDA certified organic seal represents, which includes no GE contamination. If the USDA organic seal no longer represents a GE-free product, the integrity of the entire organic industry in this country will be compromised and consumers may no longer choose organic products. The organic dairy industry is now at approximately \$1.4 billion in sales and according to USDA's 2008 Organic Production Survey, farm sales of organic fluid milk were \$750 million. If farmers are unable to source adequate organic feed, they will not be able to produce organic milk.

The DEIS analysis fails to consider the need for GE alfalfa. Herbicides are used on only 7% of the alfalfa acreage in the country as "companion crops" in alfalfa fields are commonly utilized by dairy and beef producers for weed control and nutritional balance in livestock diets. The potential development of herbicide tolerance is minimized and dismissed. We believe that other significant environmental impacts are overlooked, ignored or minimized in the DEIS analysis. Neither impact was given any significance by APHIS, and should be reconsidered.

USDA has taken an impermissibly narrow view of its regulatory authority. The National Environmental Policy Act (NEPA) and the Plant Protection Act (PPA) provide a robust regulatory framework that ensures the protection of the environment and the vital economic interests of U.S. farmers. NEPA requires a hard look at the environmental consequences of federal actions and mandates that all reasonably foreseeable environmental impacts be addressed. The PPA grants you with broad authority to protect the agriculture, environment and economy of the U.S.

Congress enacted legislation in the 2008 Farm Bill to provide the USDA Secretary with added authority to ensure that GE contamination was minimized or prevented after rice producers lost an estimated \$1.25 billion as a result of a contamination event. The USDA has failed to adopt regulations implementing these statutory mandates. APHIS cannot run away from its regulatory responsibilities to protect farmers from environmental and economic harm that are the direct result of GE contamination in the promotion of agricultural biotechnologies.

We believe that the broad regulatory authority available to you has been ignored, in order to justify deregulation of a biotech crop that has limited utility to anyone except the manufacturer. You have spoken often about USDA having a role to help all farmers, both conventional and organic, and how organic agriculture helps to support local and regional food systems. How you respond to this DEIS, the first of its kind involving agricultural biotech and a perennial crop, and the 200,000 comments that USDA has received will demonstrate whether you truly want to do everything you can to support all farmers. USDA must do a better job to help organic operators coexist with those who chose other farming alternatives.

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We request that you fully review the facts, law, and science in this case and take the "no action" alternative to maintain the regulated status for GE alfalfa. As the 200,000 comments indicate, there is significant concern that the risks to alfalfa producers and the U.S. agricultural are too great and benefits too few to allow deregulation.

Sincerely,



PATRICK LEAHY
United States Senator



PETER DEFAZIO
Member of Congress



BERNIE SANDERS
United States Senator



RUSSELL D. FEINGOLD
United States Senator



RON WYDEN
United States Senator



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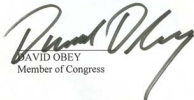
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