

August 22, 2012

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

Re: Docket No. APHIS-2012-0047 – Monsanto Co.; Availability of Petition for Determination of Nonregulated Status of Soybean Genetically Engineered for Herbicide Tolerance

Dear Mr. Secretary:

Our organizations have a strong interest in the availability of new technologies that enhance the sustainability, productivity and competitiveness of U.S. agriculture. Improvements in these areas depend on innovation made possible through science-based regulation of actual, not perceived, risk. This is why we strongly urge you to maintain a commitment to an efficient, scientifically sound regulatory process and, in particular, to reject petitions submitted to the Animal and Plant Health Inspection Service (APHIS) that are clearly intended to unnecessarily delay science-based decisions on new biotechnology-derived products by requiring an environmental impact statement (EIS) to consider the cumulative impacts of the deregulation of *auxin* herbicide tolerant crops.

We support the longstanding APHIS policy to conduct an environmental assessment (EA) for new product deregulation. While we appreciate that some novel traits may require additional scrutiny, completing a full EIS on every new trait, when the EA results in a Finding of No Significant Impacts (FONSI), is fundamentally inconsistent with safety and risk-based principles. When an EA demonstrates that no significant environmental impact exists, requiring a full EIS unjustifiably increases regulatory costs, chills product innovation, damages the global reputation of the U.S. regulatory framework, and ultimately reduces the efficiency and productivity of U.S. agriculture. The global reputation of the U.S. regulatory framework is of particular concern because non-science-based delays in the U.S. system have repercussions internationally. In contrast, timely and predictable science-based regulation of crops derived from modern biotechnology signals to our trading partners a commitment to sound regulatory policy in the U.S., which, in turn, discourages adopting a “precautionary” regulatory approach in other countries, promotes greater market access, and provides production agriculture with the tools needed to keep pace with growing demand worldwide.

In spite of the resource burden of fighting repeated legal challenges by opponents of modern agriculture, USDA has maintained a commitment to sound and predictable science-based regulation of plant biotechnology. We appreciate this commitment and the dedication of regulators to conduct thorough and robust EAs that address environmental concerns.

Specific to the *auxin* herbicide tolerant traits undergoing APHIS review, the text of a petition filed earlier in 2012 by the “Save Our Crops Coalition” (SOCC) clearly states the principal purpose of their proposed EIS is to analyze herbicide use. As you know, herbicide use is regulated by the Environmental Protection Agency (EPA); not APHIS, which lacks the authority to regulate herbicide use. APHIS has repeatedly acknowledged this division of authority. In addition, a federal court recently held: “APHIS has no authority to regulate where and how [an herbicide] is used. Congress has delegated that authority to EPA

through FIFRA”¹ The court ruling highlights why APHIS should not delay its decision on *auxin* herbicide tolerant traits by ignoring the EA results and requiring completion of an EIS.

In addition, the concerns raised in the SOCC petition have been thoroughly addressed through industry collaboration and commitment to responsible stewardship. The next evolution in herbicide tolerant cropping systems has been developed in concert with industry and farmer interests to meet emerging weed control challenges and incorporate stewardship measures that promote compatibility with other crops and cropping systems.

We remain concerned about efforts to deny valuable tools to U.S. farmers by requiring costly and unwarranted environmental reviews of agricultural biotechnology. In our view, requiring a full EIS is not necessary for these products when APHIS has already conducted an EA resulting in a FONSI. We urge USDA to continue its efforts to improve and streamline regulatory decision-making.

Sincerely,

Agricultural Retailers Association
American Farm Bureau Federation
American Seed Trade Association
American Soybean Association
American Sugarbeet Growers Association
Biotechnology Industry Organization
National Association of Wheat Growers
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives

¹ Center for Food Safety v. Vilsack, No. 11-1310, 2012 U.S. Dist. LEXIS 1214, at *38 (N.D. Cal. Jan. 5, 2012)