

Cross-contamination and the law: Legal background on Australia's GMO crop case

Trent Thorne, an agribusiness lawyer with McCullough Robertson, an independent law firm in Australia, took to his company's website to discuss the Western Australia Supreme Court case of Marsh v Baxter, which will be wrapping up soon. The case concerns genetically modified canola crops blown into an organic oat and wheat field. Organic farmer Steve Marsh is suing his neighbor Michael Baxter, who grows GMO crops, after harvested seed heads from Baxter's genetically modified canola crop blew onto Marsh's farm.

"The ramifications of the case are enormous," writes Thorne. If Marsh can prove Baxter was negligent in planting a legal crop it could have impacts on all farmers who grow GM crops and who share boundaries with organic farmers. But Thorne writes, "I would question whether Marsh even gets to first base with his negligence case."

Negligence isn't the only issue at stake in this case. In some ways the organic standard is on trial:

One of the issues in the case has been criticism of the zero tolerance regime that NASAA requires its organic farmers to achieve i.e. no form of GM material is to be present in any crop. This standard, even in the strictest and most controlled environments, is almost impossible to achieve. It is for this reason that similar organic certifiers in US and the EU allow tolerances up to 5% and 0.9% respectively for GM material content before decertification.

While in the press this case is "portrayed as a fight between organic and GM, it's really a case about the consequences of inadvertent cross-contamination, and who should bear responsibility for it," writes Thorne. If Baxter has to compensate Marsh for cross contamination that would surely "open the floodgates to litigation." Something that Thorne argues judges are unlikely to do.

Unfortunately, the case has never been about Marsh or Baxter. It appears to me that the case was hijacked from the start by anti GM interest groups that have seen this action as a Trojan horse method of attacking Monsanto (the company responsible for developing the GM canola crop) and stopping the inevitable take-up by more farmers of GM crops.

Read the full original article: GM crop test case

Additional Resources:

- [Australian GMO "contamination" case in final stages](#), Farm Weekly
- [Could the Australian GMO-organic court case lead to global restrictions on biotech farming?](#), Motley Fool
- [Can organics and GMOs coexist? Landmark case goes to court in Australia](#), Global Mail