

March 13, 2013

The Honorable Harry Reid
Senate Majority Leader

The Honorable Barbara Mikulski
Senate Appropriations Chairwoman

Mitch McConnell
Senate Minority Leader

The Honorable Richard Shelby
Senate Appropriations Ranking Member

Over One Hundred Organizations and Businesses Unite to Support Tester Amendment, Oppose Biotech Rider (Sec. 735) in Senate CR

*Coalition calls for Congress to strike chemical industry provision that would
block judicial powers, undermine USDA regulations*

Dear Majority Leader Reid, Senate Minority Leader McConnell, Chairwoman Mikulski and Ranking Member Shelby:

The undersigned group of over one hundred food businesses and retailers, and family farm, consumer, health, environmental and civil liberties groups, unite to support an amendment offered by Senator Jon Tester to strike the “biotech rider” (Sec. 735) in the proposed Senate Continuing Resolution. Last September our groups wrote to applaud your decision to exclude this dangerous policy rider from consideration in the current Continuing Resolution. This provision represents a serious and unique assault on the fundamental safeguards of our judicial system, and would negatively impact farmers, the environment and public health across America. For these reasons, we support the Tester amendment and call for the biotech rider to be eliminated from the bill.

On the heels of federal court decisions that have found approvals of several genetically engineered (GE) crops to be unlawful, the agricultural biotech industry quietly slipped a policy rider into the FY 2013 Agriculture Appropriations bill that would strip federal courts of the authority to halt the sale and planting of an illegal, potentially hazardous GE crop while the U.S. Department of Agriculture (USDA), Fish and Wildlife Service, or other agencies assess those potential hazards. In several recent lawsuits, federal courts have ruled for farmers, businesses and public interest plaintiffs based on the finding that USDA had violated federal law by failing to adequately consider the potential harms of GE crops it had approved.

In reversing USDA’s decisions, these federal courts have quite reasonably barred or restricted sales and planting of such unlawfully approved crops pending further review, to protect health and the environment. This rider is specifically intended to prohibit courts from imposing such reasonable restrictions in the event of similar cases in the future, undermining judicial authority in the interests of maximizing biotech industry seed sales. This unreasonable and biased provision would prevent a court from putting in place court-ordered restrictions, even if the approval were fraudulent or involved bribery.

Further, this provision would compel USDA to immediately allow continued planting of a GE crop upon request, even if in the course of its assessment the Department finds that it poses previously unrecognized risks. If this occurs, USDA will be severely hampered from preventing costly transgenic contamination episodes, resulting in market rejection of U.S. agricultural products and the loss of foreign and domestic markets, and untold millions of dollars in revenue. Many agricultural product markets around the world, including some of our nation’s most prized trade partners, demand food grown without the use of GE technology. The stark reality that American farmers and our economy will face if the upcoming funding bill includes the biotech rider that U.S. seed, crops and foods contaminated with GE material cannot and will not be sold in many international markets.

Both conventional (non-biotech) and organic farmers have suffered substantial losses in the past due to contamination episodes. If this provision were to become law, USDA would be forced to immediately approve all permits for continued planting of an “unapproved” biotech crop, exposing more farmers to substantial damage risk. This would further damage the ability of American farmers to compete in foreign markets and would put our nation’s delicate agricultural markets at risk. Far from safeguarding farmers, the only parties whose interests are “assured” by this rider are those of the agricultural biotech industry.

The facts are important is weighing this issue. GE crop developers have misled Congress with this false and self-serving provision. Every court that has reversed a USDA decision to approve a GE crop has carefully weighed the interests of all affected farmers, as is already required by law. No farmer has ever had his or her crops destroyed. USDA already has working mechanisms in place to allow partial approvals, and the Department has used them, making this provision completely unnecessary.

This agricultural biotech provision would set a dangerous precedent for congressional intervention in the judiciary. Our federal courts have long been the last resort for people seeking to challenge illegal actions by the government or its officials, including actions that may threaten freedom from discrimination, access to education, access to health care, property ownership and other important social benefits including clean air, clean water and the fair distribution of government resources. If this provision were to become law, it would harm not only those who would otherwise challenge illegal government actions, but also all people and communities who benefit from efforts to root out government abuse and unlawful action. The ability of U.S. courts to review, evaluate and judge an issue that impacts the nation's public and environmental health is a strength, not a weakness of our legal system.

For the foregoing reasons, we oppose the biotech rider (Sec. 735) in the Senate Continuing Resolution and support the Tester amendment to eliminate it from the bill.

Respectfully submitted:

Business, Trade and Farming Associations

Alaska Trollers Association
Albert's Organics
Amy's Kitchen
Annie's Inc.
California Certified Organic Farmers
Clif Bar and Company
CROPP Cooperative (Organic Valley)
EConsulting
Eden Foods
Equal Exchange
Federation of Southern Cooperatives
Good Earth Natural Foods
High Mowing Organic Seeds
Independent Natural Food Retailers Association
Jacobs Farm / Del Cabo, Inc.
Lundberg Family Farms
Nature's Path Foods, Inc.
Northeast Organic Dairy Producers Alliance
Northeast Organic Farming Association - Connecticut
Northeast Organic Farming Association - Interstate Council
Organic Farmers' Agency for Relationship Marketing, Inc.
Organically Grown Company
Organic Seed Growers and Trade Association
Organic Trade Association
PCC Natural Markets
San Francisco Crab Boat Owners Association
Stonyfield Farm
Straus Family Creamery
United Natural Foods, Inc.
Wood Prairie Farm

National, State and Local Organizations

AllergyKids Foundation
Alliance for Humane Biotechnology
Alliance for Natural Health-USA
American Civil Liberties Union
Beyond Pesticides
Bluefestival
Californians for Alternatives to Toxics
Center for Biological Diversity
Center for Environmental Health
Center for Food Safety
Community to Community Development
Community Food and Justice Coalition
Consumers Union
Cornucopia Institute
Cuatro Puertas
Dakota Resource Council
Dakota Rural Action
Earthjustice
Ecological Farming Association
Environmental Working Group
Farm Aid
Farm and Ranch Freedom Alliance
Farm-to-Consumer Legal Defense Fund
Food and Water Watch
Food Democracy Now!
Food Rights Network
Friends of Family Farmers
Friends of the Earth
Go Wild Campaign
Idaho Rural Council
Institute for Agriculture and Trade Policy
Institute for Responsible Technology
Iowa Breast Cancer Edu-action
Just Label It

Karuk Tribe
Label GMOs
Live Real
Loka Institute
Mangrove Action Project
Midwest Environmental Justice Organization
Midwest Organic and Sustainable Education Services
Millennium Institute
Moms Advocating Sustainability
National Cooperative Grocers Association
National Family Farm Coalition
National Organic Coalition
National Sustainable Agriculture Coalition
Natural Resources Defense Council
Nebraska Sustainable Agriculture Society
New England Farmers Union
Non-GMO Project
Northwest Atlantic Marine Alliance
Northwest Center for Alternatives to Pesticides
Northwest Resistance Against Genetic Engineering
Oakland Institute
OMB Watch
Oregon Rural Action
Oregon Tilth

Organic Consumers Association
Organic Farming Research Foundation
Organic Seed Alliance
Partners for
the Land & Agricultural Needs of Traditional Peoples
Pennsylvania Association for Sustainable Agriculture
Pesticide Action Network North America
Physician Committee for Responsible Medicine
Progressive Agriculture Organization
Public Citizen
Roots of Change
Rural Coalition/Coalición Rural
Rural Vermont
Sierra Club
South Florida Cancer Association
Sustainable Fairfax
Sustainable Living Systems
The Endocrine Disruption Exchange
Union of Concerned Scientists
Washington Biotechnology Action Council
Western Colorado Congress
Western Organization of Resource Councils
Weston A. Price Foundation
World Farmers

CC:
Senate Assistant Majority Leader Dick Durbin
Senate Assistant Minority Leader Jon Kyl
Speaker of the House John Boehner
Majority Leader Eric Cantor
House Minority Leader Nancy Pelosi
House Minority Whip Steny Hoyer
U.S. House of Representatives
U.S. Senate