

Australian organic farmer loses GM test case (Update)

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The sun shines down on a field of canola plants on April 19, 2011

An Australian farmer who lost his organic produce licence after his fields were contaminated by a neighbour's genetically modified canola crop failed Wednesday to win his test case for losses.

In a judgment which could influence how GM crops are grown in Australia, Justice Kenneth Martin also denied an injunction to protect Steve Marsh's crops against future contamination.

Marsh sued neighbour Michael Baxter following the loss of organic certification on 70 percent of his land in 2010, after parts of canola plants and seed from Baxter's farm blew onto his property. He claimed the loss cost him financially.

But in a 150-page judgment, the court noted that genetically modified canola was approved for farming in Australia in 2010 and Baxter did nothing wrong in cultivating and harvesting the crop.

"Baxter was not to be held responsible as a broadacre farmer merely for growing a lawful GM crop and choosing to adopt a harvest methodology (swathing) which was entirely orthodox in its implementation," Martin said in his judgment.

Nor could Baxter be held responsible, in law, for the reaction of the Marshes' organic certification body.

Martin said there was no evidence of genetic transference at Marsh's farm, 250 kilometres (155 miles) southeast of Perth, where oats and other grains were grown and sheep grazed but where canola has not been grown.

"These canola swathes were all physically benign," he said, adding they posed no health risk or a risk of any GM genetic trait transfer to any species.

Lawyers for Marsh said the outcome of the case, which tested the legal rights of farmers to choose what they farm, was disappointing.

"(It) leaves Australia's non-genetically modified food farmers with no legal protection against contamination from nearby properties," said Slater and Gordon lawyer Mark Walter.

"We will closely examine the judgment of this complex and unique case and advise our client of his legal options, including his right to appeal."

Environmentalists from Greenpeace have campaigned against genetically modified crops in Australia, but the Australian Centre for Plant Functional Genomics welcomed the court's decision.

The centre's programme leader Andrew Jacobs said the outcome should focus attention on the standards applied for organic licences in Australia, where there is a zero tolerance threshold for contamination in broadacre crops.

"In any event, there is no evidence whatsoever that GM crops are harmful," Jacobs said.

Mike Jones, a professor of agricultural biotechnology at Western Australia's Murdoch University, said the decision was a "victory for common sense".

"It is to be hoped that organisations that accredit organic farmers modify their rules to acknowledge that nothing in agriculture is 100 percent," he said.

"If they adjust their rules to reflect those of similar accreditation bodies overseas to allow for small amounts of unintended presence of other seeds, then organic, conventional and GM crop farmers can all co-exist without the antagonism that this case has engendered."

Outside the Supreme Court of Western Australia, Baxter welcomed the result and said he hoped it provided some certainty for other GM farmers.

"It's been three years of going through this and finally we've got the right

result," he told reporters.

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