

TESTIMONY
SB 239, SD1
LATE

LATE TESTIMONY

Testimony Submitted to the

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

DATE: Tuesday, February 25, 2009
TIME: 2:45 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

by

Richard M. Manshardt, Professor
Department of Tropical Plant & Soil Sciences
College of Tropical Agriculture and Human Resources
University of Hawai'i at Mānoa

RELATING TO **SB 239**, REGARDING GENETICALLY ENGINEERED PLANTS.
Requires the department of agriculture to notify the public of the location of field tests
and the production of genetically engineered plants.

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My name is Richard Manshardt. I am a professor and plant geneticist in CTAHR at UH Manoa. I have 26 years of research and teaching experience in crop sciences at UH, including conventional crop breeding and development of virus-resistant, genetically engineered (GE) papaya varieties for Hawaii growers. I am providing testimony on my own behalf, not officially presenting the position of CTAHR or UH on this bill.

I respectfully oppose SB 239.

This bill requires growers to register plantings of GE crops with the Hawaii DoA and make information about location, type of crop, and name of the grower available to the public. The bill mentions “an acknowledged risk that genetically engineered crops may contaminate organic and conventional crops,” but it offers no information about actual negative biological consequences on agricultural environments or human health resulting from cultivation or consumption of currently commercialized GE crops.

In fact, the biological impacts of current GE crops are not different or greater than those caused by production and distribution of conventional or organic crops. All currently commercialized GE crops have been extensively tested for safety by developers and reviewed and approved by three federal agencies (USDA, EPA, FDA). In the specific case of the virus-disease-resistant Hawaiian papayas with which I am personally familiar, no harmful environmental, agricultural, or human health issues were found to be unique to GE papayas in seven years of testing during development or ten years of production after commercial release. In the last decade, I estimate that about 200 million pounds of GE fruit have been consumed in the USA without incident. These findings are substantiated by many professional and scientific organizations (including the American Medical Association and U.S. National Academy of Sciences), which have endorsed the viewpoint that GE crops are no riskier than their non-GE counterparts.

The only GE risk that SB239 addresses is economic loss due to “contamination” of organic crops by pollen drift from GE fields. Cases of cross-pollination of organic crops by GE pollen are often cited by activists opposed to GE crops, because organic growers have chosen unilaterally and arbitrarily to define “organic” to exclude GE products (USDA, National Organic Standards). Consequently, organic farmers are concerned that accidental transfer of GE genes to their crops will destroy the basis for the premium paid by consumers who are upset about hypothetical health or environmental risks that anti-GE activists attribute to GE crops. The lack of any real evidence for health or safety concerns unique to GE crops makes it difficult for me to see the logic in the organic vs. GE distinction. For that matter, it is hard to see why the presence or absence of a GE trait in a crop should be an issue at all in determining the process-based characteristic of organic status. Logically, as long as a crop is produced using organic methods, it should be marketable as organic, regardless of the genetics of the crop variety. This point is even acknowledged in the National Organic Standards, which permits marketing as organic, crops which contain an unavoidable presence of GE product, due for instance to pollen drift from nearby GE varieties, provided that the crop was otherwise produced by organic methods.

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Furthermore, I think the public release of information about locations of GE plantings, and growers' names, places them at risk from vandalism and harassment by anti-GE activists. Will the State of Hawaii bear any liability for damages caused as a result of disclosing such information?

I also question whether the costs of collecting, organizing, maintaining, and publicizing such information, not to mention the cost and feasibility of enforcing compliance, are worth the effort, in the absence of any demonstrable difference between GE and non-GE foods with respect to human health or environmental safety. I think that organic growers who profit from an artificial distinction cannot expect others to bear responsibility for preserving it. There are other ways than those proposed in SB239 to avoid unwanted cross-pollination or seed mixture that involve simple, good horticultural practices. Among these are planting only seed of authenticated varieties, bagging flowers used for seed production to prevent crossing, saving seeds only from protected plants or those grown in isolation, and maintaining minimum isolation distances between neighboring fields of the same species.

For the reasons above, I urge legislators to **deny passage of SB 239**.

Finally, my hope, and I believe that of my colleagues at CTAHR, is that as time goes on, organic and GE will find much of value in each other. Organic crops should have the benefits of GE resistance to important diseases and pests, while GE crops can profit from the long-term sustainability of organic production methods.

Personal Testimony Presented before the
Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs
Wednesday, February 25, 2009, 2:45 p.m.
by
Ching Yuan Hu

LATE TESTIMONY

SB 239, SD1 - RELATING TO GENETICALLY ENGINEERED PLANTS

Chair Hee, Vice Chair Tokuda, and Members of the Committee:

My name is Ching Yuan Hu, and I serve as the associate dean and associate director for research with the University of Hawaii at Manoa's College of Tropical Agriculture and Human Resources (CTAHR). I am pleased to provide personal testimony on SB 239, SD1. This testimony does not represent the position of the University of Hawaii or CTAHR.

The purpose of Senate Bill 239, SD1 is to require growers and testers of genetically engineered plants in the State to notify the Department of Agriculture (DOA) regarding the existence of these plants and to require the DOA to make certain information about genetically modified plant projects accessible to the public.

I oppose SB 239, SD1 for the following reasons:

1. Although this measure is intended to be essentially a "good neighbor" policy by those who grow genetically engineered crops in Hawaii, the disclosure requirements and information required for reporting purposes are extensive, and require notification via public notices placed in DOA's website and publication in island newspapers in accordance with Section 1-28.5, Hawaii Revised Statutes. This latter requirement will add unnecessary additional cost to the project and to the State.

Reporting is already required under the Federal Plant Protection Act. The reporting requirement under this bill duplicates procedures already in place.

2. Moreover, mandatory disclosure of exact locations of plantings also detrimentally and publicly advertises the whereabouts of these plants and crops and exposes them to risk of theft, vandalism and destruction by those that oppose this type of research. Federal courts have ruled in favor of sealing location information for this very reason. This is not hypothetical; CTAHR has experienced extensive vandalism of its transgenic papaya research.
3. Genetically engineered crops have not been proven to be detrimental to human health or to the environment.

4. The likelihood of unintentional cross pollination with neighboring non-engineered plants is highly unlikely as procedures to prevent this are well established and part of standard agriculture practices.

Thank you for the opportunity to testify on this bill.

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From: Robert Paull [robert.paull@hawaiiantel.net]
Sent: Wednesday, February 25, 2009 6:30 AM
To: WTLTestimony
Cc: paull@hawaii.edu
Subject: SB239 Testimony

Senate Bill: SB239 2009 Regular Session

Title: Relating to Genetically Engineered Plants

Position: Oppose

Submitted By: Robert Paull
Honolulu, HI 96821

Testimony:

I have been a Professor at the University of Hawaii at Manoa for nearly thirty years in the area of crop production and plant sciences. This testimony is submitted as a private citizen and voter, and not as a representative of the University.

I have been involved in plant sciences and plant breeding for forty years and published in journals on the use of this technology. In addition, in my consulting, I need to be aware of the Federal National Organic Standard

In the last five years, the legislature has considered a number of Bills on genetic engineered crops. All these bills are designed to place restrictions on this technology and limit freedom of choice. The Bills are not scientific or risk-based but based upon the misuse and abuse of science, and a belief that there must be a possible unknown risk. In addition, some of the testimony that has been given at the legislature has been false, with false claims of a National Research Council report stating that there are unintended health effects of this technology. All the Bills heard by the Legislature refuse to compare risks amongst all plant breeding methods, this Bill is no exception. This Bills uses such words as "devastating economic impact" without a single piece of supporting evidence and in apparent conflict with the Federal Organic Standard statements on unintended contamination.

The definitions in this Bill are so overly broad with no definition of "traditional breeding and selection" to make the Bill meaningless. The Bill uses the term 'does not occur naturally by multiplication or natural recombination' suggesting that these are the only two ways that genetic material has been changed throughout plant evolution which is incorrect. This Bill's broad definition can be interpreted to mean that all varieties developed with breeding technologies developed after the 1940s would require notification.

This Bill is so broader that its required home gardeners to notify the Department of Agriculture when they plant one virus resistant papaya plant obtained from the local garden shop in their backyard. Of course, they would need to give their street address or a GPS location.

This Bill is another unfunded mandate to the Department of Agriculture which has already had it budget cut more than 20%. This Bill will require the Department of Agriculture to divert scarce resources away from more crucial issue such as the prevent of entry and control of invasive insects, disease and weeds.

Robert E. Paull

5393 Poola Street
Honolulu, HI 96821

LATE TESTIMONY

LATE TESTIMONY

From: CLEGG, DAN [AG/2563] [dan.clegg@monsanto.com]
Sent: Wednesday, February 25, 2009 6:31 AM
To: WTLTestimony
Subject: Opposition of SB239

This might be too late for testimony, but releasing specific data of where we as the seed industry release our trials adds absolutely no value to the community. By releasing the sites it only allows for vandals and eco terrorists to pinpoint what they think is something of value that they can destroy.

This will, for all intensive purposes, aid in the ability for anti GMO, anti business, and eco terrorists to pinpoint their attacks on what they think are relevant targets, while knowingly engaging in criminal acts using this new information.

Then who is responsible for the crime and damage that comes from this. We all lose with SB239 Please do not support it.

Please protect the Government's ability to partner with and provide oversight of private industry while at the same time protecting private industries ability to maintain confidentiality.

Thanks.

Dan Clegg

808-283-4028 cell

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LATE TESTIMONY

Hawaii Papaya Industry Association

**Testimony by Delan Perry, Vice President
Senate Committees on Water, Land, Agriculture, and Hawaiian
Affairs
Wednesday, February 25, 2009
2.45 p.m.**

Opposed to SB239 SD1

**Senator Clayton Hee, Chair
Committee Members**

Thank you for the opportunity to testify today. This bill would have expensive and many unintended consequences for the Papaya Industry and some serious negative effects on Hawaii's Hundreds of papaya farmers, their families and their hundreds of employees.

This bill would make information available to the general public that would compromise farmers competitiveness with other growers and make them vulnerable to vandals. Farmers at this time are quite willing to disclose the requested information on transgenic and conventional and organic plantings to the Hawaii Department of Agriculture through the National Agricultural Statistics Service (NASS). However, the NASS has a strong policy of non-disclosure of individual farm operations because they have a long history of protecting the competitiveness on individual farms. Without this non disclosure protection, competitors would know what others are doing and achieve unfair competitive advantage that could and has disrupted farm businesses. Further, disclosing operations' planting varieties would be used by vandals to destroy farmer's crops. This has happened many times in the past, and the State should not facilitate this mindless and expensive destruction.

This bill would place a tremendous economic burden and risk on papaya growers, an important group likely to be affected by this legislation. Issues such as pollen drift or other cross pollination, are easily met by growers by instituting good practices. For instance, thousands of acres of Kapoho have been certified for shipment to Japan. There are very good ways to deal with cross pollination and seed supply.

As part of the lengthy and thorough deregulatory process with the US government, Canadian government and Japanese government, all agricultural weed, and food safety issues have been thoroughly researched. The USDA,

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FDA, EPA, and Canadian governments have completed their process and approved the local papaya cultivars such as Laie Gold, Rainbow and Sunup.

Issues regarding neighboring farms are best resolved by talking to your neighbors and not attempting one-way legislation such as this bill. Whether the issue be different varieties that may cross pollinate, or not adequately controlling fungus, insects or weeds that are crossing borders, the Good Agricultural Practice needs to be neighbor to neighbor communication.

Increased transparency in the market place is a good goal. Increased funding for positive marketing will allow growers and the Papaya Industry to communicate the healthy aspects of a highly nutritious fruit with, anti-oxidant properties, a fresh local product with important digestive aide. Papayas are good for the growers and the health of consumers. They are certainly important to the economic health of most of the farming and rural areas of the state.

Organic production should be increased as there is a large market, but not at the expense of the huge network of conventional and biotech farms that **deliver nutritious and affordable fresh produce** to the people of Hawaii and beyond.

Don't kill the industry by misdirected policies like a negative disclosure policy that will seriously impact the commercial viability of our producers of local fruit and vegetables.

Thank you very much,

Sincerely,

**Delan Perry
Vice President**

LATE TESTIMONY

From: OFSTONE@aol.com
Sent: Wednesday, February 25, 2009 10:09 AM
To: WTLTestimony
Subject: Support of SB 239 SD 1

Hearing on 02-25-09 2:45pm in conference room 229

Committee on Water, Land, Agriculture, and Hawaiian Affairs
Testimony in support of Senate Bill 239, SD 1

Dear Chair Clayton Hee and Vice Chair Jill Tokuda, and committee members,

Please support the passing of SB 239, SD1 in regard to the Department of Agriculture

Requires the department of agriculture to notify the public of the location of field tests and the production of genetically engineered plants. (SD1)

This is so very important to us on Kaua'i and across the state, as we presently have no local nor state right to know about the location and true nature of the experimental field crops growing in our neighborhoods, schools, beaches and shopping areas.

It is unfortunate that when these ag lands went from sugar into biotech test crops that no EIS was done. These interspecies plants are not the same as traditional crops. Never before have we mixed DNA from unrelated plant species, animals and even humans and pharmaceutical crops.

The public has a right to know where these fields are in the name of safety, health and risks to their backyard gardens. Biotech is detrimental to property values.

At the Waimea Canyon Middle School we have over 11 incidents of children falling down ill while at school and no answers as to the true cause, although most obvious are the adjacent biotech field experiments. The development of pesticide producing plants and herbicide tolerant crops and reason to avoid these areas. Knowledge is power and we citizens and our county government would like the right to know where this is going on so we can plan accordingly.

The GMO companies use of Kaua'i as an outdoor laboratory are a liability to our tourism driven economy and our desire to be food sovereign.

Mahalo for supporting this bill,
Jeri Di Pietro
GMO Free Kaua'i
PO Box 343
Koloa, HI 96756
808 651 1332
808 651 9603

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SB No. 239 "Department of Agriculture; Notification; Genetically Engineered Plants"

Position: Against

Committee Hearing: Energy and Environment, February 25, 2009 at 2:45 p.m. Room 229

Chair: Senator Clayton Hee

Vice-Chair: Senator Jill Tokuda

Name: Dr. Susan C. Miyasaka, Interim Administrator of the College of Tropical Agriculture & Human Resources (CTAHR) Hawaii County, Agronomist

Dear Chairman Hee,

Thank you for the opportunity to provide written testimony today against SB No. 239 as a private citizen. I attended an interesting talk on February 7 by Dr. Pamela Ronald (Professor of Plant Pathology, UC Davis) and Mr. Raoul Adamchak (Teacher of Organic Production Practices, UC Davis). This husband and wife team wrote a well-researched book entitled "Tomorrow's Table: Organic Farming, Genetics, and the Future of Food."

In their book and in their presentation, they talk about how can you tell whom to trust on the issue of genetic engineering? True Warning or False Alarm? True warnings are based on reports of scientific research produced at a recognized scientific institution. False alarms are more likely to have sponsors with biases against the producer of the alleged hazard.

The vast majority of scientists and scientific organizations agree that genetically engineered crops are safe once they have passed the rigorous testing required by federal laws. Proponents of legislation to ban genetic engineering often cite the book entitled "Seeds of Deception" by Jeff Smith, a former Iowa political candidate for the Natural Law Party with no scientific training. In his book, Smith cited the experiment of a 17-year-old student who fed mice GE potatoes and observed 'marked behavioral differences.' This experiment was conducted by a teenager and reported by his mother to someone who posted this information on a web site. The results of this study have not been confirmed by any reputable scientist.

To require that farmers of commercialized GE crops such as papaya post the location of their crops using global positioning system (GPS) would add to their costs and impose an unnecessary layer of bureaucracy. Commercial farmers are struggling to survive in these tough economic times, and this Bill would add to the regulatory hoops through which they must jump.

What is the evidence of harm that requires the passage of this bill? By your statistics, organic farmers produce only 1-5% of the value of other commercial crops. Organic papaya growers can still sell their papayas as organic even if there is accidental pollen drift from GE papaya. Perhaps, it would be more efficient to require that organic

papaya farmers should GPS their plantings so that commercial growers of GE papayas can avoid 'contamination' of their crop with genes that could contain papaya ringspot-susceptible genes.

Also, although they may not recognize it, production of GE papayas has benefited organic papaya growers. Large-scale plantings of GE papayas has drastically reduced the available papaya ringspot virus.

I respectfully urge you to vote against SB 239.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

LATE TESTIMONY

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

WEDNESDAY, FEBRUARY 25, 2009
2:45 P.M.
ROOM 229

SENATE BILL NO. 239, SD1
RELATING TO GENETICALLY ENGINEERED PLANTS

Chairperson Hee and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill 239, SD1. The purpose of this bill is to require growers of genetically engineered plants (GE) in Hawaii to disclose certain information on these plants to the Hawaii Department of Agriculture and to require the Department to provide public access to this information. The general public currently has access to information regarding GE plants grown or tested in Hawaii via a federal website. Valuable Department manpower and resources would be wasted on duplicating an information system already in place. For this reason we strongly oppose the passage of this bill.

Under federal law, permitting and regulation of field tests of genetically engineered plants is under the domain of the U.S. Department of Agriculture, Biotechnology Regulatory Services (USDA-BRS). All documents submitted to USDA-BRS are subject to the Freedom of Information Act (FOIA), which requires that records submitted to federal agencies generally be made available to the public. These records can be obtained directly at the Virginia Tech website at

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<http://www.isb.vt.edu/cfdocs/fieldtests1.cfm>, or indirectly, by going to the BRS website at <http://www.aphis.usda.gov/biotechnology>, which links back to the Virginia Tech website.

Section (b)(4) of the FOIA, exempts from disclosure certain types of information, collectively referred to as *confidential business information* (CBI). USDA-BRS reserves the right to accept, challenge, or request further information on each claim of CBI made by an applicant for growing or testing GE plants. It should be noted that each piece of information an applicant claims as CBI must meet specific criteria and be justified in terms related to competitive harm due to its disclosure. As such, records regarding permitting and regulation of GE plant field tests include information on organism, institution, permit number, genes incorporated, phenotype, acreage allowed under notification/permit, and state. If CBI is claimed and accepted by USDA-BRS, the record will state "CBI" under that category of information.

Growers and testers of genetically engineered plants must notify USDA-BRS regarding the movement and existence of regulated GE plants. Hawaii Department of Agriculture receives notification from USDA-BRS and utilizes the same USDA-BRS website, which is available to the public, as an additional method to track applicants. Any information that is not CBI is already accessible to the public on the USDA-BRS website. It would prove a very costly and unnecessary waste of resources to duplicate a system that currently exists and provides, at no cost, the same information the Department would disclose under this measure.

To the extent that this bill requires disclosure to the public of information that qualifies as CBI for USDA-BRS regulated GE growing and testing in Hawaii, the bill appears to be in conflict with existing Federal regulations; Freedom of Information Act (FOIA).

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SB No. 239 "Department of Agriculture; Notification; Genetically Engineered Plants"

Position: Against

Committee Hearing: Energy and Environment, February 25, 2009 at 2:45 p.m. Room 229

Chair: Senator Clayton Hee

Vice-Chair: Senator Jill Tokuda

Name: Dr. Susan C. Miyasaka, Interim Administrator of the College of Tropical Agriculture & Human Resources (CTAHR) Hawaii County, Agronomist

Dear Chairman Hee,

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The vast majority of scientists and scientific organizations agree that genetically engineered crops are safe once they have passed the rigorous testing required by federal laws. Proponents of legislation to ban genetic engineering often cite the book entitled "Seeds of Deception" by Jeff Smith, a former Iowa political candidate for the Natural Law Party with no scientific training. In his book, Smith cited the experiment of a 17-year-old student who fed mice GE potatoes and observed 'marked behavioral differences.' This experiment was conducted by a teenager and reported by his mother to someone who posted this information on a web site. The results of this study have not been confirmed by any reputable scientist.

To require that farmers of commercialized GE crops such as papaya post the location of their crops using global positioning system (GPS) would add to their costs and impose an unnecessary layer of bureaucracy. Commercial farmers are struggling to survive in these tough economic times, and this Bill would add to the regulatory hoops through which they must jump.

What is the evidence of harm that requires the passage of this bill? By your statistics, organic farmers produce only 1-5% of the value of other commercial crops. Organic papaya growers can still sell their papayas as organic even if there is accidental pollen drift from GE papaya. Perhaps, it would be more efficient to require that organic

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Also, although they may not recognize it, production of GE papayas has benefited organic papaya growers. Large-scale plantings of GE papayas has drastically reduced the available papaya ringspot virus.

I respectfully urge you to vote against SB 239.

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Date: Wed, 25 Feb 2009 11:31:33 -1000
To: Testimony@capitol.hawaii.gov
From: Trent Hata Subject: Against SB239

This bill requiring GE papaya farmers to GPS their fields is not right and unfair. To make it fair have all papaya farmers GE and organic growers GPS their crops. Why should GE papaya growers be singled out. Farming is difficult but a clean, honest way of making a living. Legislators should support this life style and all growers. Passing bills such as this just makes things more difficult to make a living.

Thanks for letting me comment. Trent

From: Kauai [us@kauaigems.com]
Sent: Wednesday, February 25, 2009 2:30 PM
To: WTLTestimony
Subject: SB239

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I am in favor of having the right to know the location of genetically engineered fields and am in favor of SD239. Ina Roessler, full time Kauai resident and voting citizen.

LATE TESTIMONY

From: Kauai [us@kauaigems.com]
Sent: Wednesday, February 25, 2009 2:31 PM
To: WTLTestimony
Subject: SB239

I am in favor of having the right to know the location of gmo fields and am therefore in favor of SB239. Norbert Roessler, full time resident of Kauai

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(END)