

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

GROCERY MANUFACTURERS)
ASSOCIATION, *et al.*,)

Plaintiffs,)

v.)

) Case No. 5:14-cv-00117-CR

WILLIAM H. SORRELL, in his official capacity)
as the Attorney General of Vermont, *et al.*,)

Defendants,)

and)

VERMONT PUBLIC INTEREST RESEARCH)
GROUP and CENTER FOR FOOD SAFETY,)

Proposed Intervenor-Defendants.)

**DECLARATION OF PAUL BURNS IN SUPPORT OF VERMONT PUBLIC INTEREST
RESEARCH GROUP AND CENTER FOR FOOD SAFETY'S MOTION TO
INTERVENE AS DEFENDANTS**

I, Paul Burns, do hereby declare as follows:

Introduction

1. I am the Executive Director of Vermont Public Interest Research Group (VPIRG). I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. VPIRG is a tax-exempt, nonprofit membership organization that is incorporated under the laws of the State of Vermont. VPIRG was established in 1972 and is Vermont's largest environmental and consumer advocacy organization. VPIRG has approximately 30,000 members and supporters throughout Vermont who have been active with the organization. VPIRG's mission is to promote and protect the health of Vermont's environment, people, and

locally-based economy by informing and mobilizing citizens statewide. Securing the labeling of genetically engineered (GE) foods falls well within this mission.

3. For over forty years, VPIRG has brought the voice of average Vermont citizens to public policy debates concerning the environment, health care, consumer protection, and democracy. As a part of our consumer protection work, VPIRG has been intimately involved with the passage of H.112, the House bill that became Act 120. Governor Peter Shumlin and members of the Vermont legislature commended VPIRG for our work around this issue in statements made during the legislative debates and at the signing ceremony for H.112.

Interests

4. VPIRG has been at the forefront of the GE labeling issue in Vermont since 2012 when we hosted the first meeting of a nascent coalition coming together to work on this issue. Our Consumer Protection Advocate, Falko Schilling, monitored legislative hearings and helped coordinate witness testimony regarding H.722, H.112's predecessor. In 2012, Mr. Schilling also did public outreach to thousands of VPIRG members about the issue of labeling GE foods. During the 2013 legislative session, we continued to advocate for GE labeling by organizing in support of H.112. VPIRG retained the services of Vermont Law School's Environmental and Natural Resources Law Clinic (ENRLC), which enabled us to provide valuable legal and policy expertise to the legislature. Mr. Schilling and ENRLC Associate Director Laura Murphy testified before legislative committees to voice support for H.112 and to provide information regarding the constitutionality of GE labeling. In 2013, H.112 passed the House by a 99-42 vote. During the 2014 legislative session, Mr. Schilling and ENRLC representatives continued to advocate for H.112 on behalf of VPIRG by testifying before Senate Committees and providing updated legal and factual materials. Vermont Representative and Chair of the House Committee

on Agriculture and Forest Products Carolyn Partridge expressed her thanks for this “extensive background work” at the signing ceremony for the bill. VPIRG also worked closely with the Center for Food Safety (CFS) to provide additional policy, legal, and scientific expertise and to raise public awareness about the bill both within Vermont and throughout the nation.

5. In addition to participating in the legislative process, VPIRG was a founding member of the Vermont Right to Know GMOs Coalition, which led an extensive grassroots advocacy campaign to mobilize significant public support for H.112. The coalition created a website¹ with fact sheets, studies, videos, and action alerts to inform the public about GE foods and the benefits of labeling legislation. VPIRG also created a website² to keep our members up-to-date about VPIRG’s work in the legislature and to provide access to additional resources on the health and environmental risks of GE foods. Through our online presence, VPIRG and the coalition encouraged Vermonters to express support for H.112 by submitting letters to their legislators, signing petitions, and sharing information via social media. In addition, VPIRG sent out approximately thirty-one GE labeling emails to supporters during the 2013 legislative session, twenty-nine emails during the 2014 legislative session, and an additional twenty-one with the coalition during the 2014 session. Further, over the summer of 2013 VPIRG undertook the largest canvassing effort in the organization’s history. More than sixty canvassers knocked on over 80,000 Vermonters’ doors, and eventually delivered more than 30,000 postcards to Vermont state Senators. In turn, more than 30,000 VPIRG supporters conveyed messages and postcards to their legislators during spring 2014 requesting labels on GE foods. At the signing ceremony for H.112, Governor Shumlin referred to me as a “tireless advocate” and gave a “huge shout out” to these canvassers. As further evidence of VPIRG’s effective organizing, more than

¹ Vt. Right to Know GMOs, <http://www.vtrighttoknowgmos.org/>.

² VPIRG, *Vermont: Label GMOs*, <http://www.vpirg.org/vt-label-gmos/>.

200 people showed up to a public hearing in May 2014 where Mr. Schilling and numerous VPIRG members testified in support of H.112.

6. VPIRG's recent efforts to make Vermont the first state in the nation to require GE labeling are a direct extension of our longstanding commitment to increasing transparency in the marketplace and to ensuring a safe and healthy environment for Vermont residents. Over the past forty years, VPIRG has protected Vermont consumers by fighting against dangerous toys, abusive credit card fees and practices, and predatory lending and identity theft. VPIRG has also worked to reduce exposure to toxic chemicals, advocated for the timely cleanup of the Vermont Yankee nuclear plant, and supported Vermont's transition to local, green energy sources. When necessary, VPIRG engages in public interest litigation to protect its members' interests in health, safety and the environment.³

7. This case also implicates our members' personal interests in Act 120. When VPIRG members buy food for themselves and their families from Vermont's retailers, they need to know whether that food is genetically engineered.

8. Our members have a direct and specific interest in protecting Act 120 from the Plaintiffs' attack because the Act will enable them to make informed choices about the foods that they consume. Specifically, Act 120 will enable our members to avoid purchasing GE foods in order to avoid their potential health risks.

9. In addition, Act 120 will enable our members to avoid purchasing GE foods in order to avoid supporting agricultural production systems that result in environmental harms. Our members believe that GE crops have many unintended, adverse impacts on the environment,

³ See, e.g., *Green Mountain Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F. Supp. 2d 295 (D. Vt. 2007); *Vt. Pub. Interest Research Grp. v. U.S. Fish & Wildlife Serv.*, 247 F. Supp. 2d 495 (D. Vt. 2002).

including biodiversity loss, increased crop vulnerability to pests and diseases, water contamination from increased pesticide use, and contamination of organic crops because of cross-pollination by GE crops, among others.

10. Our members also have a direct and specific interest in avoiding being deceived and confused by food that is genetically engineered but not labeled, and in avoiding being deceived and confused by food that is genetically engineered and yet labeled as “natural.”

11. Finally, our members have a direct and specific interest in Act 120 because it will enable them to make informed decisions in protection and furtherance of their religious beliefs and their dietary restrictions.

12. In sum, working closely with the ENRLC, CFS, and the coalition, VPIRG played a central role in shaping H.112 and advancing VPIRG member interests in a safe and transparent food system.

Injury

13. Accordingly, as the above-summarized body of work and interests illustrate, VPIRG and VPIRG’s members would be severely and particularly injured by any decision in favor of Plaintiffs’ legal challenge to Act 120.

14. Working closely with the ENRLC, CFS, and the Vermont Right to Know GMOs Coalition, VPIRG supported the passage of Act 120 by organizing one of the most extensive grassroots advocacy campaigns in the organization’s history. Therefore, this case has the potential to impact VPIRG’s core organizational interests in protecting the public’s ability to know what is in their food and how their food was produced.

15. VPIRG members have an interest in Act 120 because the Act enables them to avoid purchasing GE foods to prevent potential risks to their health, to protect the environment,

to protect their religious beliefs and dietary practices, and to avoid being inadvertently deceived by food labels. Therefore, this case has the potential to impact the interests of VPIRG members.

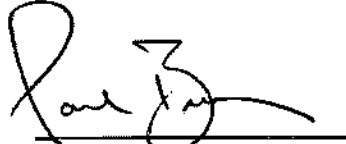
16. In sum, upholding the validity of Act 120 and ensuring Act 120's successful implementation is crucial to VPIRG's organizational interests and the interests of its members.

Conclusion

17. Participating in litigation in Federal District Court in Vermont to defend the constitutionality of Act 120 will further VPIRG's purpose and mission to protect Vermont consumers and to ensure a safe and healthy environment for Vermont residents. This Court can protect the above-described interests of VPIRG and its members by upholding Act 120. If Plaintiffs' efforts are successful, however, VPIRG's interests will be harmed. VPIRG and its members believe that Vermont should lead the way in ensuring a safe and transparent food system for state citizens by requiring the labeling of GE foods.

I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed on July 7th (seventh), 2014 in Montpelier, VT



Paul Burns