

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

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

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

**DECLARATION OF WILL ALLEN IN SUPPORT OF VERMONT PUBLIC INTEREST  
RESEARCH GROUP AND CENTER FOR FOOD SAFETY’S MOTION TO  
INTERVENE AS DEFENDANTS**

I, Will Allen, do hereby declare as follows:

1. I have personal knowledge of the following and could competently testify if called as a witness.

***Background***

2. I currently reside and farm in Orange County, Vermont. I have been a farmer in Orange County since 2000. I co-manage Cedar Circle Farm, which we transitioned from a conventional farm to an organic farm, a process that generally takes three years. Cedar Circle Farm was certified organic in 2004. We grow a wide variety of crops on forty-five acres including: heirloom corn, peas, green beans, twelve different types of dry beans, potatoes, fifty different varieties of heirloom tomatoes, melons, strawberries, blueberries, raspberries, sunflowers (for cooking oil), apples, wheat, and a variety of greens such as chard, kale, mustard

greens, beet greens, lettuces, and salad mixes. Cedar Circle Farm now employs about fifty people.

3. The majority of our business involves selling fruit and produce to local, individual customers. I estimate that roughly ninety percent of our customers are local. Cedar Circle Farm also has a small-scale wholesale operation, selling to five local restaurants and a few co-op stores. For the past fourteen years, we have developed personal relationships with our customers and the local community and have high standards for the organic products we sell. Knowing our customers means we are fully responsible for ensuring that they receive the highest quality organic produce. In addition to growing and selling a wide variety of organic crops to individual consumers, Cedar Circle Farm also has a Community Supported Agriculture (CSA) program. In addition to retail, the farm has an education program that provides outreach to local schools and the community about organic farming, health and nutrition, and the environmental impacts of industrial farming—such as pesticide use, fertilizer use, and the production of greenhouse gases.

4. I am a member in good standing of the Center for Food Safety (CFS). I joined CFS because CFS represents my interests as an organic farmer by supporting organic and sustainable farming practices, and as a consumer by supporting state right-to-know genetically engineered (GE) labeling initiatives.

5. I am a lifelong farmer and have been farming organically since 1972. I have organically farmed in California, Oregon, and Vermont. For the past fourteen years I have been a Farm Manager at Cedar Circle Farm in Vermont. I have a PhD in anthropology and have taught courses in anthropology and agriculture. In 2008, my book, *The War on Bugs* was published; the book chronicles the advent of chemical use in agriculture from post-Civil War America to our present day agricultural system.

*Act 120*

6. I first learned about GE crops when I was living in California in the late 1980s/early 1990s. At that time, I was working with the California Energy Commission on a project that was monitoring and examining ways to change the large, continuous amount of pesticides being used to produce artichokes. While I was working with the state to try to curtail heavy pesticide use in one crop, the experimental first field tests for GE “flavor saver” tomatoes were being conducted in California. A lot of farmers and consumers, including myself, protested “flavor saver” tomatoes in part because of their potential to cross-contaminate with organic and conventional plants. There were also strong concerns, which I continue to have and discuss below, about the safety of consuming GE crops. Whether it is the failed “flavor saver” tomatoes or current GE crops or pending GE fruits and potatoes, I do not believe that the health effects of consuming GE foods have been adequately and independently evaluated.

7. In addition to being a member of CFS, I have been an active proponent of Act 120 since its inception and through each stage of its legislation. I was influential in creating a coalition of Vermont farming groups, public interest groups, and Vermont businesses that helped support and shepherd Act 120 through the Vermont Legislature. Act 120 represents an important step in ensuring citizens’ right to know whether the food they are consuming has been produced with GE crops.

8. My legislative work on Act 120 started in the winter of 2011. The Vermont Legislature convenes every biennium, so 2012 was the second year of the Legislature’s two-year session. The bill that would become Act 120 passed through the Agriculture Committee that year. A new two-year legislative session started in 2013. During this critical year, I worked with the coalition on getting the bill passed through the necessary committees and floor votes of

Vermont's House and Senate. We were able to find a lot of allies in the Legislature who share Vermont citizens' and my belief that we have a right to know whether we are consuming GE products. The bill passed and Act 120 was signed into law May 8, 2014. I was honored to speak during the Act's signing ceremony.

9. I am aware that industry organizations have consistently threatened to sue Vermont over Act 120. This threat was made clear by industry lawyers during their testimony before the Vermont House's Committee on Agriculture. I am also aware that multinational corporations and food trade organizations that oppose Act 120 already provide GE labels on their products throughout countries in Europe, Asia, and Africa. Sixty-four countries already have some form of GE labeling requirements that these companies comply with. There is no good reason that these companies cannot comply with Act 120.

***Injury: Confusion and Deception***

10. Act 120 imposes labeling requirements for GE and "natural" foods, prohibiting GE foods from being labeled as natural. I do not believe that GE crops or genetically modified organisms (GMOs) in general, are "natural." I know that GMOs could not have attained their altered genetic traits in any type of natural, reproductive, and/or inheritable manner. GE foods and products that contain GMOs should not be labeled "natural" because this is misleading and deceptive to consumers like myself.

11. As a local, organic farmer, I believe that my customers have a right to make informed decisions about the food they choose to consume, for health reasons, environmental reasons, and ethical reasons. I have found that knowing what is in our foods is growing increasingly important for members of my community, especially new parents with young children and older adults seeking to improve their health and nutrition. Although I am an

organic farmer, absent Act 120, I too do not know whether or in what quantity GE crops are in conventional food I buy.

12. As a consumer, I avoid consuming GE foods as much as I can, but without the labeling required by Act 120, I will continue to have the burden of trying to determine whether or not food I buy was produced with genetic engineering or not. It is confusing and deceptive to consumers like me for companies to keep secret and not disclose the basic fact that a food product has been genetically engineered.

***Injury: Health Risks***

13. I am concerned about consuming products containing GE crops because the long-term human health effects are unknown and poorly studied. I am also deeply concerned about the lack of assessment of GE foods. I know that the Food and Drug Administration (FDA) does not conduct any independent testing on GE crops, but rather it relies solely on industry data. I know that even private consultations with FDA by industry under the current system are entirely voluntary. Without valid, independent, safety consultations, potential health risks posed by GE crops are simply not evaluated. I am familiar with studies indicating that GE foods can cause damage to liver, kidney, and intestines. There is a dearth of scientific information and without labeling consumers remain uninformed and are potentially exposed to health risks that the FDA has yet to fully assess. The labeling requirements of Act 120 will protect my right to know and choose when I purchase food whether it is genetically engineered.

14. Act 120's labeling provisions will ensure that consumers like myself are able to make informed decisions about what food they purchase and have proof of what they have eaten should they develop short- or long-term food related illnesses. It is my understanding that, while current commercial GE crops are limited to a handful of commodity and feed crops, new GE

crops, such as melons, strawberries, apples, and wheat have been developed, and that GE potatoes are again being considered. These developments make Act 120's GE labeling provisions all the more important.

***Injury: Agronomic Impacts of GE Crops***

15. Act 120's labeling requirements are a huge step towards increasing the transparency of our food production system, which helps protect me and other farmers. Labeling also lets consumers decide whether or not they want to purchase GE products that can harm the environment and sustainable farming operations like ours.

16. Cedar Circle Farm is an organic farm. There are several organic farms in Orange County. Vermont is dominated by dairy farms including those that raise the dairy cows and conduct dairy farm operations, and farms that produce the corn, alfalfa, and soy that the dairy cows eat. These dairy feed farms overwhelmingly grow genetically engineered corn, GE alfalfa, and GE soy. Due to the dominance of GE crops, organic farmers are concerned about cross-contamination with their organic crops. Organic farmers are highly concerned about GE corn and GE alfalfa, because the pollen produced from these crops has the highest potential to drift and contaminate. GE alfalfa, in fact, can contaminate legumes other than just alfalfa plants. Cross-contamination is a major concern for me and other organic farmers.

17. As an organic farmer, I believe I have the right to grow the crops of my choice without the risk of contamination. Contamination is an irreparable harm because it could cost me the ability to farm as I choose and grow organic, uncontaminated crops. Our farm has already been harmed by GE crops. We have had to take costly precautions and alter farming practices to ensure that our organic crops are not contaminated. A neighboring farm produces only GE crops, in particular GE corn. As a result, we cannot grow heirloom corn on twenty-



eight acres of my farm that are near this neighboring farm due to the risk of cross-pollination contamination. We have had to create a fifty-foot buffer zone that extends 1500 feet between the length of our properties. This results in about 2 acres of land that we cannot use, simply because we need to protect our organic crops from potential GE contamination. Also, we have had to genetically test crops for contamination. These genetic tests can cost anywhere from \$2000 to \$3000. To perform the test, we have to send in seeds from a crop we have harvested. The test we had conducted was on heirloom corn and luckily it came back negative for contamination.

18. If one of our crops were to ever come back as GE-contaminated, we would be forced to dispose of the crop, because we cannot, in good faith, sell a GE-contaminated crop from an organic farm to consumers expecting an organic product. This also is because we know that our customers, like many organic consumers, buy organic in large part because they know it is not genetically engineered. We know that organic consumers and markets reject GE-contaminated products. In addition, we could risk my organic certification if we sold contaminated products, since one of the fundamental tenets of the organic standard is that it prohibits the use of genetic engineering.

19. New GE crops will also negatively affect our organic farming practices in the same way that GE commodity crops currently affect the farm. As with current GE crops, neighboring farmers could start planting these new GE fruits and vegetables, without any warning to neighboring farmers. This places all the burden on us, as organic farmers, to take the necessary precautions to ensure that there is no cross-contamination. Melons, strawberries, blueberries, raspberries, apples, wheat, and potatoes are all important crops that we grow at Cedar Circle Farm. If a neighboring farm were to begin growing GE versions of these crops, we would have no real way of knowing until after they had been planted. For example, I know that

the United States Department of Agriculture is currently considering approving the first GE apple. Cedar Circle Farm currently has 100 apple trees. All of these trees would be at risk should a neighboring farm decide to plant, without providing my farm any warning, GE apples. As a precaution, we would have to further expand buffer zones, which would reduce the area that we have to farm on, increase costly genetic testing on crops for cross-contamination, perform additional water quality testing, and in some cases, we may have to cease planting a particular crop altogether. The costs associated with taking these additional precautions as well as the threat that my crops will be contaminated could have a real impact on our business.

20. The labeling provisions of Act 120 inform consumers like me about the fact products are genetically engineered, and allows us the choice whether to support a system of production that threatens organic farmers like me. Such retail labeling will also increase transparency throughout the food production system, reducing the likelihood of inadvertent contamination.

***Injury: Environmental Impacts***

21. In addition to fears of cross-contamination, I am very concerned about impacts of GE crops on the environment, in terms of increased pesticide and herbicide use, the water pollution that occurs due to this increased chemical use, and other ecosystem impacts. I know that GE crops have caused an enormous increase in herbicide use, including here in Vermont, because they are overwhelmingly engineered to be resistant to herbicides. Fertilizer use has also gone up. Due to these increases in fertilizer and pesticide use, and as a responsible certified organic farmer, we have had to test the water supply at Cedar Circle Farm to make sure it is safe. This testing is especially critical because Cedar Circle Farm is on the banks of the Connecticut River, which collects a lot of the runoff from the GE farms in the area. Additionally, I am



concerned about what impacts the rise in pesticide and fertilizer use are having on the area's soil and air quality.

22. I am ethically and morally opposed to the use of genetically engineered crops absent any adequate independent studies on their impact on human health, their use in food products without labeling, without accurate assessment of their associated environmental costs, and their large-scale use and consumption without any transparency. I want to maintain my right as an organic farmer to farm without fear of cross-contamination. Act 120 is a first, critical step in shifting the burden from organic farmers who have to defend their practices and take costly steps to prevent cross-contamination, to a system where subsidized, "conventional," GE farming begins to bear the same costs and burdens. I want to maintain my right as a consumer to know whether food contains GE crops, and to be able to make an informed decision about what I eat.

23. For all of the above reasons, any loss of Act 120's important labeling provisions would significantly injure me as a consumer, farmer, businessman, and member of CFS.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2014 in East Thetford, VT

  
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Will Allen