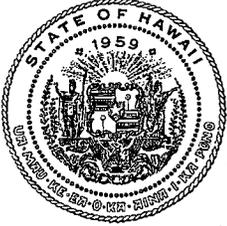


TESTIMONY
SB 239, SD1



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON WATER, LAND, AGRICULTURE,
AND HAWAIIAN AFFAIRS**
Wednesday, February 25, 2009
2:45 p.m.
State Capitol Auditorium
Room 22

in consideration of
SB 239 SD1
RELATING TO GENETICALLY ENGINEERED PLANTS.

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

The Department of Business, Economic Development, and Tourism (DBEDT) understands the intent of SB 239 SD1, which would require growers and testers of genetically engineered plants to notify the Hawaii Department of Agriculture and in turn, require the Department of Agriculture to make this information accessible to the public; however we have serious concerns and support the Department of Agriculture in opposition to passage of this bill.

In addition to the reasons cited by the Department of Agriculture, we are concerned about the impact on the local agriculture industry of imposing additional regulations on genetically engineered plants, which are already highly regulated at the federal level. Over-regulation contributes to Hawaii's anti-business image, jeopardizing the success of established businesses as well as the potential of attracting new investment to the State.

Thank you for the opportunity to provide these comments.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs

From: Paul T. Tsukiyama, Director

Date: Wednesday, February 25, 2009, 2:45 p.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 239, S.D.1
Relating to Genetically Engineered Plants

Thank you for the opportunity to submit testimony on S.B. No. 239, SD1.

The Office of Information Practices ("OIP") takes no position on the substance of the bill. However, OIP has concerns and seeks clarification of proposed sections 2-3 (bill pages 3-5). Under these sections information that could properly be withheld from disclosure under the Uniform Information Practices Act ("UIPA") would be public. The UIPA protects information which may frustrate "a legitimate government function" or which may be protected from disclosure by state or federal law.

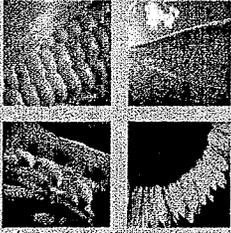
While the Legislature may decide whether to make these covered records public, if the Legislature does want to continue to apply the UIPA exceptions to these records, OIP recommends that sections 2 be modified by adding as follows:

"§ -2 Notification requirement. (a) Any person . . . (d) information under this section shall be subject to applicable federal and state law, including but not limited to, chapter 92F, HRS."

Section 3 of the bill requires all information on the public information sheet to be posted on the department's website and notice published according to HRS § 1-28.5. The effect of this, regardless of an amendment to section 2, would require all the information to be posted publically. If this Committee desires the information to be public, regardless of applicable state law, then this paragraph should remain the same. If however the Committee would prefer to modify the section to match the limits created by federal and state law, OIP recommends that section 3 be amended to read:

“§ -3 Public notice requirement. Information submitted to the department on the public information sheet, after redaction of information exempt from public disclosure under applicable federal and state law, including but not limited to, chapter 92F, HRS, pursuant to . . . posted on the department's website.”

Thank you for the opportunity to testify.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti

SB 239sd1, Relating to Genetically Engineered Plants

Senate WTL Committee

Wednesday, Feb. 25, 2009

Room 229, 2:45 pm

Position: Strong Opposition

Chair Hee, and Members of the Senate WTL Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

Three U.S. regulatory bodies, United States Department of Agriculture (USDA), Environmental Protection Agency (EPA) and Food and Drug Administration (FDA), review and evaluate agriculture biotech technologies. These agencies are provided information required for oversight, including the location and the traits in the crop that lead to improved agricultural genetic characteristics.

Despite criticisms about the regulatory oversight and control of biotech crops, at no time has human health and safety been at risk. With more than a decade of commercialized biotech crops on the market, there has never been a documented incident of any harm to the health of consumers, farmers or the environment anywhere in the world from such crops. There are thousands of scientific and peer-reviewed studies that substantiate the health and safety of biotech crops, and that these crops are substantially equivalent to non-biotech crops and pose no health and safety risks.

Further, farmers who follow agriculture best practices know that discussion with neighbor farmers are necessary to ensure crop varietal purity—no matter if it is conventional, organic, or biotech. HCIA's opposition to public disclosure of either regulated research or approved commercial biotech crops is based on fear of vandalism, or worse, threat of worker safety and destruction of crops by those who are not supportive of the technology. For example, please see the attached May 19, 2000, GenetiX Press Release, Hawaiian Elves Destroy GE Crops and Research on Island of Kauai. More recently, we understand that on Feb. 2, 2009, the 9th Circuit, US Court of Appeals filed and ruled that Center for Food Safety, KAHEA, Friends of the Earth, Inc, Pesticide Action Network, NA challenge for site disclosure of certain genetically modified plants was not justified because of risk of vandalism and possibility that trade secrets would be stolen. Then, on Feb. 5, 2009, CBS News reported the sentencing of an anti-GMO activist to 22 years in prison for arson at the Michigan University Campus. (Please see attached)

Please reconsider this bill. It does nothing to further responsible science, innovation and technology businesses in Hawaii. Thank you for the opportunity to present testimony.

HCIA 2008-2009 Board of Directors

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Alicia Maluafiti

91-1012 Kahi'uka Street

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director@hciaonline.com

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PRESS RELEASE: HAWAIIAN ELVES DESTROY GE CROPS AND RESEARCH ON ISLAND OF KAUAI

May 19 2000
GenetiX press release

Hawaiian Elves Destroy GE Crops and Research on Island of Kauai Kauai, HA

- On Tuesday May 9th anti-biotech activists calling themselves the Menehune struck against the biotechnology industry which has invaded the Hawaiian Island. A communique sent by the Menehune stated that --the biotechnology industry has quietly flooded the land with genetically engineered crops.} According to the communique the activists first targeted the Novartis Research and Parent Seed Center near Kekaha, Kauai.

A growing movement continues to grow internationally against genetically modified organisms (GMO*s) such as corn, soya, rapeseed, and genetically altered forests. Genetically modified organisms exist for one reason: the drive for profit by large multinational corporations. The communique continued

--At the Novartis center, we completely destroyed one test plot of corn. We also removed bags over the corn ears that contained pollen and mixed pollen from different corn throughout other test plots to invalidate the experiments.}

The Menehune, a Hawaiian, term which refers to the elven folk or little people, struck a second night, May 10th, at the Kauai Agricultural Resource Center which is operated by the University of Hawaii at Manoa and the USDA Agricultural Research Service. At the second site test crops, mostly fruits such as papayas and pineapples and flowers such as anthuriums and dendrobium orchids, were destroyed.

*Attached is copy of the communique sent by the Menehune. Communique To The Bioengineering Action Network--Aloha, We are writing to you from the Hawaiian island of Kauai, where the biotechnology industry has quietly flooded the land with genetically engineered crops. We came across your information on the internet, and we ask that you help us distribute the following news.

On Tuesday May 9th, our group went to one of the worst industrial places, the Novartis Research & Parent Seed Center on Kaunualii Hwy (Hwy 50) near Kekaha, Kauai. They hold many permits for transgenic corn, including Bt plants which kill beneficial insects and send insecticides through their roots into the soil. At the Novartis center, we completely destroyed one test plot of corn. We also removed bags over the corn ears that contained pollen and mixed pollen from different corn throughout other test plots to invalidate the experiments.

Novartis has made dozens of dangerous tests at this place. Before Novartis came here, Northrup King tested Roundup Ready and Bt cotton for Monsanto on this piece of earth. You can feel the violence suffered by the Aina, the land, when you walk around here at night.

The next night, May 10th, we went to the Kauai Agricultural Resource Center on the Old King*s Highway (now 580), operated by the University of Hawaii at Manoa and the USDA Agricultural Research Service. Over the course of several hours and under rain showers, we eliminated many test crops, mostly fruits such as papayas and pineapples and flowers such as anthuriums and dendrobium orchids. These crops are subject to genetic mutilation by these institutions, who hold the permits to do so from the USDA. One sign in front of twisted, sickly-looking fruit trees had these words: --Experimental Crop Unfit For Human Consumption Or Animal Feed.} It*s nice when they acknowledge what we*ve been saying all along.

The state government is fully behind this technology, and is lobbying to bring the Biotechnology Industry Organization*s annual meeting here in 2004. Did we get 100% g.e. crops? 50%? We will never know, because they do not tell truth. What is important is that we acted on the information we had. We have no other choice. Along with other methods, we must stop the genetic pollution of our homeland. Kauai imports 97% of its food, and this research does nothing to make us self-sufficient, instead it makes us dependent on greedy corporations. It does not respect the ola, or well-being, of the land or the people. Biotechnology = Hunger.

Signed,
The Menehune

(in Hawaii, the elven folk are called the Menehune, or little people, who perform good deeds for mortals but only at night when they can not be seen)

Routed by:
Peter Bretting
USDA/ARS, National Program Staff
Room 4-2212, Mail Stop 5139
5601 Sunnyside Ave. Beltsville, MD 20705-5139
Phone: 301.504.5541, Fax : 301.504.6191
Mobile Phone: 301.346.7719
E-mail: pkb@ars.usda.gov

Woman Gets 22 Years For '99 Mich. Campus Arson

LANSING, Mich., Feb. 5, 2009

(AP) A radical activist who helped set a \$1 million fire to protest research on genetically modified crops was sentenced Thursday to nearly 22 years in prison _ even more than the prosecution recommended.

Marie Mason decided to "elevate her grievances beyond the norms of civilized society" through fire and destruction, U.S. District Judge Paul Maloney said. The case _ which was prosecuted as domestic terrorism _ was "about an abandonment of the marketplace of ideas," he added.

The explosion and fire caused more than \$1 million in damage to Michigan State University's Agriculture Hall on New Year's Eve 1999.

In her plea agreement, she also admitted causing another \$3 million in damage through other acts from 1999 to 2003, including destroying homes under construction in the Detroit area and Indiana and setting fire to two boats owned by a man who formerly raised minks.

The 47-year-old Mason, of Cincinnati, had acted on behalf of the radical group Earth Liberation Front, or ELF, which has been implicated in a spate of similar crimes, mostly in the West.

She had pleaded guilty in September to conspiracy and arson after reaching a deal with prosecutors. The prosecution had been aided by Frank Ambrose, her former husband, who cooperated with the FBI.

The investigation was cold until spring 2007, when a man looking for scrap cardboard found gas masks, an M-80 explosive, maps and anti-government writings in a suburban Detroit trash bin.

They belonged to Ambrose, who apparently was trying to shed remnants of his past. The FBI searched his home, and he became an informant, blowing the whistle on himself and Mason and going undercover to record 178 conversations with other activists.

At MSU, Mason and Ambrose targeted a campus office that held records on research related to moth-resistant potatoes for poor parts of Africa. Computers, file cabinets and desks were doused with a flammable liquid. Vapors contributed to an explosion, and the fire got out of control.

The explosion burned Mason's hair and prevented her from finishing the message, "No GMO," on a wall, a reference to genetically modified organisms.

"Pure luck" prevented the couple from being killed, Assistant U.S. Attorney Hagen Frank said. "Did that deter Ms. Mason? Not one bit. She celebrated it. Her community celebrated it."

Prosecutors had recommended 20 years in prison for Mason _ a term that would have been "the most onerous sentence imposed in a case of this sort," Frank said.

Speaking near the end of a three-hour hearing, Mason said she had been "misguided" and was sorry for those who were frightened by her actions. "I meant to inspire thought and compassion, not fear," she told the judge.

Maloney sentenced Mason to 21 years and 10 months in prison and described her as a "high risk" to repeat her crimes.

Defense lawyer John Minock said he would appeal the sentence. "I'm shocked," he said outside court. "It's grossly out of proportion to other cases."

Ambrose was sentenced in October to nine years in prison.

In an interview, U.S. Attorney Don Davis tipped his hat to Andy Wishaw, the man who alerted authorities to the unusual things he found in the trash bin.

"This case, like many other cases, was resolved through citizen interaction with law enforcement," Davis said.

Thomas T Shirai Jr
P O Box 601
Waialua, HI 96791
Email: Kawaihapai@hawaii.rr.com

Hearing Notice
Wednesday, February 25, 2009 / State Capitol Conference Room 229

Senate Committee on Water, Land, Agriculture & Hawaiian Affairs (WTL)
Senator Clayton Hee, Chair / Senator Jill Tokuda, Vice Chair
February 18, 2009

RE: Testimony of Support for SB 239 SD1 (Relating to Genetically Engineered Plants)

Aloha Chair Hee, Vice Chair Tokuda & Committee Members,

As a lifetime resident of *Mokule'ia Ahupua'a*, I strongly support SB 239 SD1 because it's past the point of the "good neighbor" and needs to be mandated.

My Grandfather and his *Kupuna* were *mahi'ai* (farmers) which included *Taro* cultivation and productivity. It's only within the last 3-5 years that *GMO* (Genetically Modified Organism) wetland *Taro* (*Kalo*) was being grown in *lo'i* encompassing about 1-2 acres here in *Mokule'ia Ahupua'a*. The residue from the *lo'i* goes to the ocean:

Archeology of Oahu – Bulletin 104 by G McAllister (1933)
Site 196. "In the valley near the mountain side of the Greenfield House was once evidently a large Hawaiian settlement...Water freshets have also obliterated many remains.."

The Hawaiian Planter – E S Craighill Handy (1940)
Mokule'ia. "There are two extensive old terrace areas in *Mokuleia* on the flatland near the sea. One is just below the Dillingham Ranch, watered by an underground flow.."

Verse 2 of *Kalena Kai* composed by King *Liholiho* during his 1820 visit to *Mokule'ia* was not intended to be interpreted as *GMO* crops productivity but genuine agricultural sustainability which included *Taro* (*Kalo*) productivity:

Kalena Kai – Chant composed by King Liholiho
'O ka ehu, ehu o ke kai – The sea spray
Ka moena pawehe o Mokule'ia – Geometric designs of the plains of Mokule'ia

Mahalo for the opportunity to support SB 239 SD1. *Malama Aina.*
Thomas T Shirai Jr
Mokule'ia, Waialua

Kawaihapai Ohana
c/o Thomas T Shirai Jr
P O Box 601
Waialua, HI 96791
Emai: Kawaihapai@hawaii.rr.com

Hearing Notice
Wednesday, February 25, 2009 / State Capitol Conference Room 229

Senate Committee on Water, Land, Agriculture & Hawaiian Affairs (WTL)
Senator Clayton Hee, Chair / Senator Jill Tokuda, Vice Chair
February 18, 2009

Testimony of Support for SB 239 SD1 (Relating to Genetically Engineered Plants)

Aloha Chair Hee, Vice Chair Tokuda & Committee Members,

The *Kawaihapai Ohana* supports SB 239 SD1 because it's past the *good neighbor*" policy which has been abused and therefore has to be mandated thru this bill. The *Kawaihapai Ohana* is recognized by *The Depart of Interior (DOI)* as a *Native Hawaiian Organization (NHO)*. Part of it's *kuleana* is to *malama aina* with an emphasis on the *Northwest Coastline of Waialua Moku* encompassing the *Ahupua'a of Kamananui, Mokule'ia, Kekahi, Auku'u, Kawaihapai, Kealia and Ka'ena*.

Some of *Kawaihapai Ohana Elders (Kupuna)* were *mahi'ai (farmers)* which included *Taro* cultivation and productivity. It's only within the last 3-5 years that *GMO (Genetically Modified Organism)* wetland *Taro (Kalo)* was being grown in *lo'i* encompassing about 1-2 acres here in *Mokule'ia Ahupua'a*. The residue from the *lo'i* goes to the ocean:

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Kalena Kai – Chant composed by King Liholiho

'O ka ehu, ehu o ke kai – The sea spray

Ka moena pawehe o Mokule'ia – Geometric designs of the plains of Mokule'ia

Thomas T Shirai Jr
Kawaihapai Ohana – Po'o



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented before the
Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs
February 25, 2009 at 2:45 p.m.

by
James R Gaines
Vice-President for Research, University of Hawai'i

SB 239SD1 – RELATING TO GENETICALLY ENGINEERED PLANTS

The University of Hawai'i stands in opposition to SB 239SD1.

The University's primary concerns are the threat to field research, vandalism and destruction of research crops as has happened during the development of the transgenic papaya. The requirement of disclosure of locations of field tests and production research crops would make these plants vulnerable to those that oppose this type of research. Furthermore, on February 2, 2009 a challenge for site disclosure of certain genetically modified plants was denied by the 9th Circuit, U.S. Court of Appeals (see Center for Food Safety et al. v Mike Johanns). The court ruled that the sealing information regarding the location of field trials was justified because of risk of vandalism and the possibility that research findings would be disclosed or stolen.

This bill also mandates a burdensome reporting and notification process and allows unspecified rule-making with no apparent benefit. The reporting requirement is duplicative and unnecessary as it is already being conducted by the federal government under the Federal Plant Protection Act.

Most importantly however is the fact that genetically engineered crops do not pose a human health or safety risk. There has never been a documented case of any harm attributed to biotech crops anywhere in the world in the decades since genetically engineered crops have been introduced into the food supply. There have been no studies that indicate any greater hazards associated with the consumption of genetically engineered foods compared to conventionally or organically grown varieties. In fact, over the years as more research has been conducted, many jurisdictions have approved more crop varieties for human use and consumption. To require labeling of foods based on the process that was used to grow them would only add to consumer confusion and in the end, will provide little information that would assist consumers in making an informed decision on the healthful qualities and/or risk of using the product.

Procedures to prevent cross pollination are well known and part of standard agriculture practice. Legislation in this regard is unnecessary and superfluous.

Thank you for the opportunity to testify on this bill.

February 23, 2009

Dear Senator Hee,

I encourage you to vote against SB239 SD 1, pertaining to the public disclosure of regulated research or approved commercial biotech crops planting locations. This bill will enable more destruction of valuable agricultural research. This research supports American farmers and sustainable agriculture, by helping to develop crop varieties that produce more food and fuel on less land.

Approved commercial biotech crops have been evaluated by the USDA, the EPA, and the FDA with many of these evaluated and approved by regulatory agencies in foreign countries. Regulated research of biotech crops is overseen in Hawaii more than any other state at both the Federal and State level. Proper controls are in place and are overseen by government agencies, so there is no need to allow activists to get involved in the process. There are no documented incidents from anywhere in the world demonstrating that biotech crops have ever caused harm to consumers, farmers or the environment; however, it research plantings continue to be destroyed by activists. So why more legislation that will enable destruction of field trials that can provide a great benefit to our country when there is an ever increasing demand for food and fuel?

Work in these field trials provides hundreds of jobs on the west side of Kauai and many more throughout the state, but if the companies that support this work are unable to obtain a benefit from these trials due to vandalism, then they will discontinue this work here and the jobs will be discontinued as well.

Please protect the valuable research that goes on in Hawaii and oppose SB239 SD 1.

Thank you for reviewing my concerns.

Jennifer Zawodny
Lawai, HI

From: Adrienn&Paul Olson [adrien_honduras@yahoo.com]
Sent: Monday, February 23, 2009 4:18 PM
To: WTLTestimony
Subject: opposition to SB239 SD1.

Dear Chairperson Senator Clayton Hee:

I'm writing in opposition to SB239.

Public disclosure of regulated research or approved commercial biotech crops:

- *threatens worker safety,*
- *puts crops and research at risk of destruction, and*
- *only empowers vandalism and anti-aloha actions.*

With more than a decade of commercialized biotech crops on the market, there has never been a documented incident of any harm to the health of consumers, farmers, or the environment anywhere in the world. Three U.S. regulatory bodies - the USDA, EPA and FDA - review and evaluate agricultural biotechnology. Moreover, thousands of scientific and peer-reviewed studies substantiate the health and safety of biotech crops, and they conclude that these crops are substantially equivalent to non-biotech crops.

I have tried to understand the social and scientific arguments from the vocal antiGMO minority but mostly hear disinformation and factual errors. Please support an important, innovative agricultural opportunity for Hawaii by opposing this bill..

*Mahalo,
Paul D. Olson, Ph.D.
Kalaheo HI 96741*

TESTIMONY ON SB 239 SD1
SENATE COMMITTEE
ON

WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

CHAIRPERSON: SENATOR Clayton Hee, Chair WTLTestimony@Capitol.hawaii.gov
BILL NO: SB 239 SD1 DOA Notification of Growing GE Crop
TITLE: Relating to GE Crop Planting Notifications
HEARING DATE & TIME: Wednesday, February 25, 2009 2:45 PM
HEARING LOCATION: Conference Room 229

TO: Chairperson Senator Clayton Hee and Members of the Committee:

My name is Don Gerbig, a retiree from the sugar industry, and an advocate of sound science and the use of biotechnology (genetic engineering) to improve our crops and fight hunger in the world.

I am opposed to the bill.

There is no scientific justification or need for such legislation. Genetic engineering is a form of plant breeding, and it is done mostly in the laboratory. As a rebuttal to the preamble of this bill, the Hawaii biotech industry contributes over \$70,000,000 to the economy of this state, which makes it a considerable economic contributor to the State of Hawaii.

There is absolutely no justifiable reason for such penalizing legislation to the agricultural industry. And there is no real world scientific justification for such legislation. Legislation should be based on the scientific facts, not on intimidation and scare tactics, or they do it, so we should do it too.

If we are basing this legislation on the possibility of harm, it might be harmful, it could be harmful, then we might also consider legislation on driving cars. And I could easily provide some very good scientific evidence on the harm of driving. A lot more than could be provided against biotech crops. Remember, all things have risk.

The paperwork for the requirements of this bill would put the new PRV disease resistant papaya growers out of business. And, where is the money for the DOA to enforcement all this reporting and monitoring.

To say the poor organic farmer would be devastated because of contamination is the SOP for this type of legislation.

The facts are, that if the organic grower has exercised proper precaution against contamination of his organic crop, and contamination occurs, the crop may still be certified as organic. The definition of such circumstances are what is called "unavoidable residual environmental contamination." Thus, the organic grower does have protection in keeping the crop organic when precaution has been exercised. Inadvertent transfer of pollen works both ways. It's part of nature, and part of farming.

I urge the committee to **not pass** this bill since it will surely increase farming costs and it has the potential to drive away companies that employ thousands of local residents.

Don Gerbig
6 Tulip Place
Lahaina, HI 96761-8322

From: SMITH, MARTHA A [AG/2058] [martha.a.smith@monsanto.com]
Sent: Monday, February 23, 2009 7:30 PM
To: WTLTestimony
Subject: Opposition to SB239 SD1

Dear Honorable Committee Chair Hee,

I urge you to oppose SB239 SD1. Genetically engineered crop trials are already regulated, reviewed and evaluated by the USDA, EPA and the FDA. These agencies have found no risk or danger associated with the production of genetically engineered crop trials. I have faith in the people who work for the USDA, EPA and the FDA and believe that they are doing their jobs by properly and extensively regulating the biotech industry. The passing of a bill such as SB239 SD1 gives the impression that we do not trust the USDA, EPA and the FDA. Why do we not trust these agencies to do their jobs? There is no scientific reason to not trust the work of these agencies. We must have faith in the scientific community and their government regulators.

The exact location of genetically engineered crop trials is not made public due to concerns over vandalism and crop destruction. Unfortunately some people would use this trial location information to locate, illegally trespass and illegally destroy the trials. The employees of the businesses growing genetically engineered crop trials are people who live in your communities. They are responsible citizens like yourself. They believe in the science of genetic engineering and they take pride in being a part of the safe and responsible production of food to feed our planet. They do not deserve to have their hard work in the fields destroyed by groups who do not believe in scientific research. Please protect their right to a safe, stable work environment by not allowing misaligned activist groups access to destroy their field trials.

Please oppose SB239 SD1.

Thank you for your time,

Martha Smith

95-1150 Makaikai St #32

Mililani, HI 96789

808-864-1835

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From: Kenneth Kamiya [kamiyak002@hawaii.rr.com]
Sent: Monday, February 23, 2009 11:51 PM
To: WTLTestimony
Subject: Opposition To S.B. 239 SD1

To: Committee On Water, Land, Agriculture, And Hawaiian Affairs
Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair Notice of Hearing:
Wednesday, February 25, 2009
2:45 p.m.
Conference Room 229
State Capitol
415 South Beretania Street

My name is Kenneth Kamiya and I am a papaya farmer from the North Shore of Oahu. Currently I have fifteen acres of papaya in the ground being harvested and I supply various outlets in Honolulu. We are looking to expand our acreage to accommodate a request to export fruit to Asia. I grow a hybridized variety called the "Laie Gold" which was developed in cooperation with the USDA-ARS personnel. This variety is resistant to the papaya ringspot virus and because it is a hybrid it has new vigor and productivity. In addition and more important it is delicious, nutritious, and well tested for safety. With almost nine years of production I have not had one bad comment or adverse reaction to the acceptance of this papaya. On the contrary, my problem is I cannot grow enough to meet the demands.

I strongly oppose SB 239 because it just one more hoop for farmers to overcome, and we already have enough challenges with invasive species, inclement weather, theft, foreign competition, ever increasing cost of supplies, and cost generating regulations government and commercial. As a farmer I am business person who needs to generate a profit. No profit no farm.

Respectfully submitted.
Kenneth Kamiya

Dear Senator Hee:

My name is Laurie Goodwin and I strongly oppose SB239 which forces public disclosure of regulated or approved biotech field locations. The seed industry is regulated and audited by the Environmental Protection Agency (EPA), the United States Department of Agriculture (USDA) and the Food and Drug Administration (FDA). Any and all field trials of genetically engineered products are conducted in full compliance with all applicable federal environmental laws and regulations. There is no advantage to public disclosure of field trial sites except to those who may have less than honorable intentions. Past precedent in Hawaii has proven that extreme activists can and will destroy experiments. This has proven the case globally – not just in Hawaii.

In February of 2009 the 9th Circuit Court ruled against the Center for Food Safety, EarthJustice, KAHEA, Friends of the Earth, and the Pesticide Action Network citing that public disclosure of field locations would put trade secrets at risk and subject the trials to the risk of vandalism.

Please vote no to SB239.

Mahalo,

Laurie Goodwin

Laurie Goodwin
PO BOX 994
Kekaha, HI
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From: PERLAK, FREDERICK J [AG/2111] [frederick.j.perlak@monsanto.com]
Sent: Tuesday, February 24, 2009 10:17 AM
To: WTLTestimony
Subject: Testimony for SB239-Feb. 25, 2009 Senate Committee on Water, Land, Agriculture and Hawaii Affairs

MONSANTO COMPANY

2104 Lauwiliwili Street, Suite 101K

Kapolei, Hawaii 96707

February 25, 2009

Hearing before the

Senate Committee on Water, Land, Agriculture and Hawaii Affairs

Testimony on SB 239, SD 1

Chair Hee and committee members:

My name is Fred Perlak, Vice President of Research and Business Operation for Monsanto Hawaii. I ask that you consider my testimony in strong opposition of SB 239, SD 1, which requires the Department of Agriculture to release the confidential location of field tests and the production of genetically engineered plants.

My company is part of the corn seed industry here in Hawaii. This industry has grown significantly in Hawaii in recent years, over 40% from 2007 to 2009. We are now the leading agricultural component in the state with over \$146 million in direct spending in Hawaii. It is the faint flicker of light in a darkening and increasingly difficult economy both here in Hawaii and on the mainland.

This measure is duplicative, unnecessary and discriminatory to the confidentiality of the business operations of our highly sensitive and competitive seed industry. Various qualified federal government agencies along with the Hawaii State Department of Agriculture, closely oversee and regulate agriculture biotechnology activities. The additional requirement of public release of confidential information will place agricultural research at risk of potential vandalism and terrorism. The Ninth Circuit recently affirmed the Hawaii district court decision to maintain the confidentiality of specific location information regarding the field trials at issue in Hawaii. The court of appeals held:

"The district court concluded, on the basis of the affidavits and the other material before it, that sealing [specific field trial location information] was justified due to the risk of vandalism to the fields and the possibility that trade secrets would be stolen. We review for abuse of discretion and conclude there was none."

Revealing the location and technical details of our research fields will expose highly confidential research information to our global competitors. Many governments and global companies aggressively compete in this

area of research. The risks and the costs to our operations would be significant and would place research done in Hawaii at a significant disadvantage compared to our well funded foreign competitors.

This measure does nothing to further responsible science and technology nor does it encourage the expansion of farming in Hawaii. Please reconsider this measure. Thank you.

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Hawaii Agriculture Research Center

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

SB 239, SD1

RELATING TO GENETICALLY ENGINEERED PLANTS

February 25, 2009

Chairman Hee and Members of your Committee:

My name is Stephanie Whalen. I am Executive Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center and our research and support staff.

HARC strongly opposes SB 239, SD1 Relating to Genetically Engineered Plants.

This proposed measure requires the Department of Agriculture to notify the public of the location of field tests and the production of genetically engineered plants. There are 2 issues here.

The first is that this measure jeopardizes the health and safety of agricultural workers. The activists involved in opposing this technology have repeatedly demonstrated their unlawful behavior by trespassing and destroying others property. This has already occurred in Hawaii.

If you pass this measure you are condoning those activities and knowingly placing people engaged in legitimate permitted agricultural activities at a high risk of harm.

The second with respect to legitimate farm production differences in processes, co-existence has been proven to work through neighborly communication. There are many factors that affect bordering farms and practices which work in reducing or eliminating those potential problems. **THIS SHOULD NOT BE THE BUSINESS OF LEGISLATION.** There are many problems that have been encountered by farmers throughout time and been solved by themselves; these include pest and disease transfer and conventionally breed varieties of various quality and value that can cross pollinate. The farmer to farmer practice needs to continue and not become another government interference which also puts some farmers in harms way.

The real problem here is that there are some who refuse to practice co-existence and look for the government to enforce their preferred philosophy and process on others. There is no compromise or co-existence for these folks; there is only their way. Coexistence has been proven across the nation where farmers recognize the value of multiple markets and

on the same farm do convention, organic and biotech production systems without government intervention.

The federal government has had a task force reviewing coexistence. I have added the introduction and conclusions at the end of this testimony. For the full report and others that include labeling go to

http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1OB?contentidonly=true&contentid=AC21Reports.xml

Thank you for the opportunity to comment in **strong opposition to SB239, SD1.**

What issues should USDA consider regarding coexistence among diverse agricultural systems in a dynamic, evolving, and complex marketplace?

A consensus response prepared by the USDA Advisory Committee on Biotechnology and 21st Century Agriculture

January XX, 2008

I Introduction

A. Committee Charge from the Office of the Secretary

The AC21 has been charged by the Office of the Secretary with addressing the question, "***What issues should USDA consider regarding coexistence among diverse agricultural systems in a dynamic, evolving, and complex marketplace?***"

B. Definition of Coexistence

Coexistence, for the purposes of this paper, refers to the concurrent cultivation of conventional¹, organic², and genetically engineered (GE)³ crops consistent with underlying consumer preferences and choices.

C. Methodology

The AC21 has discussed a number of topics relevant to coexistence of conventional, GE, and organic crops and their associated production systems in reports delivered to the Secretary of Agriculture in 2005 and 2006.⁴ Among the topics discussed in these reports are (1) identity preservation, (2) testing and tracing, (3) the effects of asynchronous product approvals, (4) local

1 "Conventional" crops in this paper refer to crops produced from non-GE crop varieties that are not produced in compliance with the requirements of the Organic Standards Act. They may be grown with the intent of entering the general commodity stream, in which case they may be mixed with GE varieties of the crop, if commercial GE varieties exist; or they may be grown under identity preservation conditions and enter the market specifically as non-GE products.

2 "Organic" refers to those crops or products produced in compliance with the Organic Standards Act.

3 "Genetically Engineered" refers to organisms, or products derived from them, produced through recombinant DNA processes.

4 "Impacts of Global Traceability and Labeling Requirements for Agricultural Biotechnology-Derived Products: Impacts and Implications for the United States," referred to as the "T & L report," and "Opportunities and Challenges in Agricultural Biotechnology: The Decade Ahead," referred to as the "O & C report". All of these reports are available on the USDA AC21 website.

moratoria on the planting of GE varieties in the United States, (5) U.S. government policy regarding the adventitious presence of GE materials, and (6) the ability of the overall federal regulatory system to address consumer concerns. Rather than repeat these discussions, the reader is directed to the earlier reports for further information.

The AC21 has met 5 times to discuss the current charge. The Committee considered presentations from outside experts and USDA representatives. The information contained in those presentations is available on the USDA AC21 website. This paper is based upon the Committee's deliberations on information offered in those presentations and is shaped by the broad collective substantive expertise of the Committee members. The AC21 discussed a number of issues and factors that are important to conventional, organic, and GE production, but consistent with the charge from the Secretary, our discussion here is focused on two key areas: 1) factors broadly enabling coexistence, and 2) factors broadly inhibiting coexistence in the future

D. Overview

Coexistence among the three categories of crops is a distinguishing characteristic of U.S. agriculture, and makes it different from some other parts of the world. The Committee gathered information from participants in different parts of the U.S. food and feed supply chain and reviewed data to analyze the current status of coexistence in the U.S. The following interesting facts came to light.

- The U.S. is the largest producer of GE crops in the world.
- The U.S. is one of the largest producers of organic crops in the world.
- The U.S. is one of the largest exporters of conventionally-grown, identity preserved, non-GE crops in the world.
- Some U.S. farmers currently are producing a combination of organic, conventional, and genetically engineered crops on the same farm.

It appears to the Committee that U.S. agriculture supports the coexistence of conventional, organic and GE crops. AC21 members have different views about how well coexistence is working, but agree that fostering coexistence is an important and worthwhile goal. It must be recognized that the concurrent use of different production systems can sometimes limit individual choices of both farmers and retail consumers⁵. The proximity of different production systems sometimes causes problems among neighboring farms, although farmers generally cooperate to reduce those problems. At the retail consumer level, some consumers cannot find the products they desire. While consumer demand eventually influences what farmers grow, sometimes there are lags in redirecting production resources to meeting emerging demand for a particular crop or product.

The Committee explored the aspects of the U.S. agricultural system that currently support and inhibit coexistence, and tried to anticipate market changes that could impact coexistence in the future. The Committee hopes that this analysis of what is currently working well, where issues exist, and what potential problems could occur in U.S. agriculture in the future, will help USDA support the diverse needs of stakeholders in the supply chain, as well as retail consumers.

The success of coexistence assumes market demand for organic, identity-preserved conventional, and GE products continues and that the government will support different agricultural production systems. That support plays an important role in ensuring that production systems in the United States for these three classes of crops will continue to thrive, prosper, and meet the needs of the

⁵ "Retail consumers" are individuals who personally use or consume a good or a service from a retail establishment. Note that the AC21 distinguished between "retail consumers" and "customers." See footnote on page 4 for the definition of "customers."

marketplace.

II. Factors Enabling Coexistence

III. Factors Potentially Inhibiting Coexistence

Go to the following website for the lengthy items under II and III.

[http://www.usda.gov/wps/portal/!ut/p/s.7.0.A/7.0.1OB?
contentidonly=true&contentid=AC21Reports.xml](http://www.usda.gov/wps/portal/!ut/p/s.7.0.A/7.0.1OB?contentidonly=true&contentid=AC21Reports.xml)

You will also find at this website other national **consensus papers** on various controversial biotech issues, such as labeling, as well as the parties/organizations consenting to these white papers.

IV. Conclusions

The members of the AC21 see the need for the continued existence of, and support for, all three production systems as part and parcel of coexistence.

We believe that USDA should:

- Continue to support those factors enabling coexistence among identity-preserved conventional, organic and GE production;
- Take note of the potential factors inhibiting coexistence; and,
- Consider actions it might take to further foster coexistence among different agricultural production systems.



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

SENATE BILL 239, SD1

RELATING TO GENETIC ENGINEERED PLANTS

**PRESENTED BEFORE THE TWENTY-FIFTH LEGISLATURE
STATE OF HAWAII**

February 2009

Chairman Hee and Members of the Senate Committee:

STRONG OPPOSITION

My name is Loren Mochida, General Manager of Tropical Hawaiian Products (THP) in Keaau Hawaii. THP is a processor and exporter of Hawaiian Premium papayas to CONUS and Japan. I also serve as a Director on the Hawaii Papaya Industry Association (HPIA) Board.

We are strongly opposed to Senate Bill 239, SD1, which will require the department of agriculture to notify public location of field tests and the production of genetically engineered plants.

This measure is characterized as a "good neighbor" policy that requires those who grow genetically engineered (biotechnology) crops in Hawaii to make basic information about planting accessible to farmers, gardeners, and the general public via a notice to the Department of Agriculture.

Any farmer worth his or her livelihood is a good neighbor, taking time to talk to neighboring farmers to see what crops are being grown or planted, and when. These discussions then influence what a farmer might plant and where it will be grown in proximity to another farmer's crop to ensure varietal purity, no matter if it is grown conventionally, organically or through biotechnology breeding methods. This is known as agriculture best practices.

Secondly, many of the reporting requirements in this bill are already provided to the federal agencies as well as the Hawaii Department of Agriculture.

Commercialized crops that have transgenic traits, such as papaya, have gone through a rigorous and lengthy process of oversight prior to commercialization. Once approved by the Federal Government for commercial use, such crops enter the free market and are deemed as safe as conventionally grown crops.

For the record, I'd like to correct misinformation about the papaya industry. Some people erroneously state that the decline in Hawaii's papaya production is due to the transgenic papaya. The fact is, transgenic papaya production suppressed the Papaya Ring Spot Virus (PRSV) and enabled conventional as well as organic papaya to be cultivated. Recent decline in papaya production is largely due to droughts or continuous wet weather.

Others will have you believe that Japan rejected the transgenic papaya. This is not true. The application process has been lengthy and delayed due to staff reassignments within Japan Ministry and the need to resubmit information and address questions. Approval is anticipated in 2010.

We urge the committee to seriously reject SB 239. This bill seems to be targeting the papaya industry in particular.

Thank you for this opportunity to testify on this Senate Bill.



TESTIMONY

Senate Committee on Energy and Environment

RE: SB 239, SD1, RELATING TO LABELING OF GENETICALLY ENGINEERED PLANTS

Chair Hee and Members of the Committee:

My name is Dean Okimoto, President of the Hawaii Farm Bureau Federation. Hawaii Farm Bureau is Hawaii's general agriculture advocacy organization, representing farmers and ranchers across the state. Our mission seeks to promote a healthy and viable agricultural industry for the State. HFBF is strongly opposed to SB239, requiring the disclosure of locations of genetically engineered plant locations.

HFBF's major objection to this measure stems from the history of destruction of test plantings by activists upon learning of the location of the GE plantings. Years of research can be lost. The ultimate question is what the information will be used for.

If the purpose of disclosure is so people will know where the plantings are located to protect their plants, pollen movement is a two way street. Just as farmers may be concerned about pollen drift on to their crop, growers of GE crops are equally concerned about drift on to their crop.....especially those growing seed since the resultant hybrid may not be what you expected if their id pollen drift. Concern about pollen drift is not new. Commercial farmers practice pollen drift control measures regularly ...if you plant yellow and white corn it is important that plantings be staggered so you do not end up with a bicolored ear. This is no different from controlling GE pollen drift.

Some will object about our position, stating that they are members of the Farm Bureau, and do not agree. As mentioned earlier, we are a general agriculture advocacy organization. We advocate for all types of agriculture, whether it be conventional, biotech or organic. We do not favor one over the other. In this particular case, biotech crops and products have been available in the marketplace for many years without adverse affect. Methods to segregate crops to preserve identity preservation is well documented and available to those wishing to do so. As such, we believe this measure to unfairly target one group against the other.

As Farm Bureau, we believe GE technology to be just another tool in the long line of advancements in plant breeding. There are many important issues that are before the legislature to address the long term viability of agriculture.

HFBF respectfully requests that this measure be held and focus be provided to bills that will contribute to the long term viability to Hawaii's agriculture and provide towards our increased self sufficiency. Thank you for this opportunity to provide our opinion on this matter.

From: DILL JR, GERALD M [AG/2111] [gerald.m.dill.jr@monsanto.com]
Sent: Tuesday, February 24, 2009 1:21 PM
To: WTLTestimony

Senator Lee-

My name is Gerry Dill and I am a resident of Kapolei, HI and wish to express my opposition to bill SB239 SD1. I am an employee of the seed industry which is a rapidly growing business here in the state. The products we are developing will impact production agriculture but just as importantly the diagnostic tools we are developing will impact all crops. The research trials we conduct must be in compliance with USDA, EPA and FDA regulations by law. Exposing scientific research locations has often resulted in vandalism to plot work which increases the cost and time to bring valuable solutions to an already taxed agricultural production system. I have been in agricultural research for more than 27 years and take great pride in the work we do to advance science in agriculture. Please join me in opposition to bill SB239 SD1 and help us to continue to advance the cause of agriculture.

Sincerely,

Gerry Dill

Kapolei, HI

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

by
Andrew G. Hashimoto

SB 239, SD1 - RELATING TO GENETICALLY ENGINEERED PLANTS

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

My name is Andrew Hashimoto, and I serve as the dean and director 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 Hawai'i 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.



Diamond Head Papaya Co., Ltd.

16-309-A Old Volcano Road • Keaau, Hawaii 96749
Telephone: (808) 966-7406 • Fax: (808) 966-6464

Testimony by Koji Okamura, Manager
Senate Committees on Water, Land, Agriculture, and Hawaiian
Affairs, and Energy and Environment
Wednesday, February 25, 2009
2:45 p.m.

Opposed to SB239

Senator Clayton Hee, Chair
Senator Mike Gabbard, Chair
Committee Members

Thank you for the opportunity to give my testimony today, I regret that I am not able to physically be there to discuss my concerns.

Diamond Head Papaya Co. Ltd is the biggest shipper of fresh papayas to Japan. We have hundreds of acres of the Kapoho Solo Variety and the GE Rainbow variety. With good field practices we have managed to keep our fields free of any cross pollination. We have protocol that gives us ways of preventing any contamination from the field to shipping our packed papayas out to market.

We are concerned for the future of the Papaya Industry should this bill be passed,. Notifying the public of field tests and the production of genetically engineered plants will be detrimental to all papaya farmers and their families. There are anti-GMO activists who have gone as far as bragging in a press release that they have destroyed test plots to invalidate experiments. What's to stop them from cutting papaya trees down? Our industry is made up of many immigrants who have no other means of making a living. If activists enter our papaya fields because of the passing of this bill you will have allowed hundreds of farmers including their families to become reliant on our State.

]

Hawaii needs continuous research on ways to combat diseases that we never thought we would have. We are susceptible to all foreign diseases because our climate is perfect for growing of all/any cell cultures. More and more we are getting visitors from all over the world, this will only bring in more diseases. If we stop research on ways to control these diseases what will be have 20 years from now? There are many health, safety and agricultural organizations around the world, including the Food and Drug Administration, the World Health Organization and the National Academics of Sciences have found no credible evidence that genetically modified foods pose any greater risk than other foods.

Please don't kill our industry by giving these extremist the opportunity to destroy something that is highly nutritious and important to the economic health of our farmers.

Thank you very much,

Sincerely,



Koji Okamura,
manager

TESTIMONY
SB 239, SD1
(END)