



LOCAL GOVERNMENT AND ENVIRONMENT COMMITTEE

8 February 2011

Claire Bleakley
President
GE Free New Zealand In Food and Environment Inc.
PO Box 13402
WELLINGTON

Dear Claire

Environmental Protection Authority Bill

Thank you for your recent supplementary submission on the above bill, which was considered by the Local Government and Environment Committee at its meeting on 1 February 2011.

The committee's view is that your supplementary submission raises issues of natural justice by making serious allegations against two individuals involved in the Environmental Risk Management Authority's GM processes. We believe that Standing Order 232 of the House of Representatives, which deals with irrelevant or unjustified allegations, applies here:

When a witness gives evidence that contains an allegation that may seriously damage the reputation of a person and the select committee is not satisfied that that evidence is relevant to its proceedings or is satisfied that the evidence creates a risk of harm to that person, which risk exceeds the benefit of the evidence, the committee will give consideration –

(a) to returning any written evidence and requesting that it be resubmitted without the offending material:

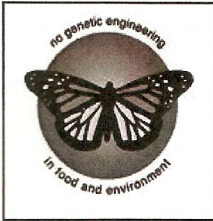
(b) to expunging that evidence from any transcript of evidence:

(c) to seeking an order of the House preventing disclosure of that evidence.

Accordingly, under Standing Order 232(a), I am returning your written supplementary submission on behalf of the committee. Should you wish to resubmit your submission with the allegations against the individual concerned removed, the committee will receive your further evidence. Please contact the Clerk of Committee, Pavan Sharma, on 04 817 9524, or at pavan.sharma@parliament.govt.nz, if have any queries.

Yours sincerely

Chris Auchinvole
Chairperson
Local Government and Environment Committee



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31/ 01/2011

Dear Select Committee members,

Thank you for giving us an opportunity to submit to the process of the introduction of the new Environmental Protection Bill.

We believe that it is important the New Zealand public has trust and feels it is protected by legislation and the EPA is legislated to be the body that seeks to protect New Zealand people in the interests of the environment and their communities.

GE Free NZ has been involved in the submission and select committee process around environmental and food issues for over 12 years. Over this time we have seen the robustness of legislation being slowly eroded and many of the assurances over the way legislation being skewed in the direction of government policy which is to advance biotechnology especially genetic engineering. For example AgResearch mission statement has been captured by GM biotechnology and they are advancing GE in the environment without the respective safety protocols in place.

To this end, we believe that ERMA has abused their discretionary powers to veer away from a science based one toward a commercial one. CRI's such as Scion, Plant and Food, AgResearch have continuously overstepped the legislative guidelines which the ERMA regulators have accepted under their discretionary powers. The trust in the regulatory process protecting the New Zealand taxpayer and community is so eroded that there is a tipping point where civil society no longer trusts the agencies that are set up to protect the environment or communities.

1. The setting up of the EPA falls on a very skeptical public ear as the trust has been totally eroded that legislative agencies will serve to protect the New Zealand taxpayer, environment and public.

We believe that this trust can be addressed by the make up of the staff and Boards that are appointed.

Part 4 (page 7/ 66 of PDF) indicates a potential conflict for the EPA in meeting its responsibilities for Climate Change legislation and management of risk from GMO's. The potential for the EPA to apply the same flawed and permissive approach as ERMA has done to date, and which have resulted in multiple legal cases where the intention of the law has been unclear, requires the committee attention. We ask that the committee debate how the EPA is to manage emerging potential conflicts and ensure that the intentions of Parliament are clear and documented.

An issue where trust and transparency have been eroded is for example: The Board the Chair of the ERMA Authority Hearing Committee for the GE submissions, Kieran Elbrough.

Mr. Elbrough arrived in New Zealand 2000 from Dundee Scotland.

He was an employed as the Chief Scientist (forage/rumen genomics) by Fonterra/ViaLactia Biosciences (NZ) Ltd from 2000–2006.

He then went on to being the Business Leader, HortResearch 2006-2008.

When on amalgamation of Crop and Food and HortResearch became Plant and Food Research Ltd he went on to becoming the General Manager of Science Food Innovation with the New Zealand Institute

On his resignation from ERMA he became director of the Biopolymer Network, a joint-venture company pursuing commercialisation of Genetic Engineering in agriculture.

Mr. Elbrough, has openly stated that GM technology should be implemented and quickly, was appointed as the chair of the ERMA Authority on the Hearings Committee from 2004 -2009. All this time his employer organisations were submitting GE applications (five GM field trials and over 15 laboratory GE trials) to ERMA Authority committee of which he had the deciding vote whilst he was integrally involved with the very organisations he was adjudicating. It was not until 2010, that he resigned citing a conflict of interest **after** the hearing on the latest multi GE animal AgResearch application which was approved.

Kieran Elborough chair of ERMA's GM Standing Committee renewed the consent duration of AgResearch's existing GE cattle experiment on 11 March 2010 for another 2.5 years, and on 1-2 March as chair of the ERMA Decision Making Committee heard the submissions about the GE sheep, cattle and goats...On March 26 Dr Elborough joined the board of a combined CRI's (Plant and Food, AgResearch, Scion) joint venture, and finally acknowledged a perceived conflict of interest and 29 March stood down, leaving just one more meeting for the remaining 3 decision makers on the application ERMA200223.

The process of the ERMA200223 application took 3 months and he knew he was Chair of the supposedly independent ERMA regulatory Board adjudicating the very organisation that was employing him yet he never declared it. He is known as a GE protagonist and there fore totally in conflict with his regulatory role.

ViaLactia in 'Industries Of The Future' Venture magazine 19th July 2002 *"If GM is permitted, and both the farmer and the customer wants it, then Dr Elborough says it would be possible to make major changes very quickly, accelerating what might take hundreds or thousands of years naturally. Using second generation GM techniques to mitigate many of the present public concerns, he says, the DNA used would be from ryegrass itself to modify ryegrass traits"*
<http://www.vialactia.com/news/research.asp?id=6>

RYEGRASS R&D: Lateral look at gene technology New Zealand Dairy Exporter August 2004
An update on ViaLactia's work with ryegrass was presented at the NZ Society of Animal Production conference by Dr Kieran Elborough, chief scientist ruminant programme, ViaLactia. If we can persuade ERMA to allow us to introduce Cisgenics in NZ, we predict a huge increase in ryegrass dry matter production, from 11 tonnes to 18t DM/ha. Field trials of the Cisgenics ryegrass start in United States in 12 months. Grazing under cows is about 3 years away. ViaLactia Biosciences is using research like Marker Assisted Selection, somaclonal variation, protoplast fusion, Cisgenics genes and inserting these genes into the chloroplast. Its ryegrass programme has run for 3 years using 14 scientists and co-operating with 10 countries.
http://www.dairyexporter.co.nz/cgi-bin/article.cgi?cmd=show&article_id=16933&view=view_printable&border=None

Soil and Health Press Release 2010.

" Kieran Elborough as chair of ERMA's GM Standing Committee renewed the consent duration of AgResearch's existing GE cattle on 11 March 2010 for another 2.5 years, and on 1-2 March 2010 as chair of the ERMA Decision Making Committee heard the submissions about the GE sheep, cattle and goats...On March 26 2010 Elborough joined the board of a combined CRI's joint venture, and finally acknowledged a perceived conflict of interest and 29 March stood down, the approval for the application ERMA200223 was given 13 April ."

Also the staff evaluating the E&R reports on behalf of the Authority are seen to hold strong links to the very organisations they are evaluating. This statement is made in relation to staff members leaving their jobs at ERMA and setting up in private practice to facilitate the very applications they were responsible of receiving to evaluate.

2000 Shaun Slattery joined ERMA as a senior policy analyst (Monitoring and Evaluation)
2004 becomes ERMA's applications manager.

January 2007 – Leaves to become regulatory advisor for SolutionNZ, as he had established networks in regulatory agencies.

September 2007 helped to write the AgResearch four stage applications

Mr. Elborough and Mr. Slattery are perceived by industry as GM friendly. (Genavia- business plan). This makes a mockery of the regulatory independence from industry links. The public concern and submissions has been treated with derision and ignored over the bias in the regulatory boards, the conflict of interest against the independent science and the derision that the public has been subjected to in the hearing process. This practice is inherently unjust and must not follow through to the EPA.

We would like a point (4) be added relating to Part 2 of Environmental Protection Authority

Section 8 - Board of EPA,

- (4) The Minister must appoint at least one lay/public member who has knowledge and experience relating to the relevant legislation in the RMA, HSNO and Climate Change Acts.
2. Part 6 (Page 11/66 PDF) also raises issues of conflict of interest in indentifying and advising the Minister of matters of national significance. There needs to be explicit requirement for **independent and diverse expert advice** if the EPA functions are to be properly met. Part (Clause 12, 1d) states a function is to “
- i) provide technical advice to government and Crown entities.”

To address this the committee is requested to add a new point 4 to page 42/66(PDF) – section 18 beginning “ The EPA may appoint committees...”

Point 4 should include

“Provide expert scientific advice independent of commercial sector or industry interests.”

3. The committee is asked to change new Section 144A at line 23
"1) the Minister may request advice...".

The EPA should have a mandate to provide – requested or not – advice if a matter may be of national significance.

Without this mandate being included in the bill it will fail to achieve one of the intentions of the bill: to ensure protection of New Zealand's environment is conducted in a manner that is based on fundamentals one-removed from political influences of the day.

4. In the section relating to the Hazardous Substances and New Organisms Bill we would like to add to the definitions of the Schedule 2 Minor amendments to the Hazardous Substances and New Organisms Act 1996

Interpretation 2 (1) - Organism,

- (f) Includes a genetically modified organism.

As the Act was written in regards to New Organisms and a major part is related to genetically modified organisms it was an error not to have included this in the description of Organism.

5. The committee is asked to note that this bill fails to address the concerns of Local Government NZ about socialized liability for damage from GMO's. Clarification around the exposure of ratepayers and the public to commercial use of GMO's is an issue that should be addressed by the EPA

We would like to be heard at any hearing,

Yours sincerely,

Claire Bleakley

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GE Free NZ in Food and Environment is a non for profit NGO,
Our activities include:

- Newsletter to our members
- Writing submissions to and attending hearings at Environmental Risk Management Authority (ERMA) or Food Standards Australian New Zealand (FSANZ).
- Writing, attending and presenting submissions on GE to Councils and Government bodies
- Provide valuable information resource to member & the public (e.g. website, info for public libraries, public meetings, public awareness activities)