

December 8, 2014

Arts, Parks, Health, Aging and the River Committee  
City Council of the City of Los Angeles  
c/o City Clerk, Room 395  
City Hall  
200 North Spring Street  
Los Angeles, CA 90012-4801

Date: 12/8/14  
Submitted in APHA Committee  
Council File No: 13-1374  
Item No: Adam R. Lid  
Deputy: 6

**RE: Ban on Genetically-Modified Food, City Council File No. 13-1374**

Dear Committee Members:

This law firm represents the Biotechnology Industry Organization ("BIO").<sup>1</sup> BIO is the world's largest trade association representing academic institutions like UCLA, Stanford University and UC Berkeley as well as biotechnology companies and centers and related organizations across the United States and in more than 30 other nations.

The Committee has received and is now considering a draft ordinance that would **ban** the propagation, cultivation, raising, growth and sale of genetically modified foods (the "Ordinance") in an effort to establish Los Angeles as a "GMO-Free Zone" (GMO refers to genetically-modified organisms). The proponents intend to avoid the effect of state law, which precludes cities and counties from adopting or enforcing any local laws that purport to regulate health and safety of plants, crops or seeds after January 1, 2015.

1. This proposed Ordinance is anti-science.
2. The City is the wrong government entity to make such decisions, let alone "ban" foods already determined safe.
3. There is no enforcement mechanism in the Ordinance and the estimated costs of enforcement could amount to many millions of dollars.
4. The Ordinance does not fully protect research conducted at universities, such as UCLA and USC.
5. No staff report accompanies the proposed Ordinance.
6. There has been no input from state agricultural specialists or the academic community, and no study of the full impact of this ordinance.

While some proponents argue lack of safety, the overwhelming scientific consensus is that genetically-modified food is as safe as conventionally-grown food. The Ordinance will have

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unintended impacts on the local economy, the Port of Los Angeles, and important medical and scientific research.

The City need not and should not rush on this proposed ordinance. It should be referred to the Office of the City Administrative Officer (“CAO”) for a report on its full impact.

In summary:

**The overwhelming scientific consensus is that genetically-modified foods are as safe as conventionally-grown food.**

- The Ordinance is not based on scientific evidence or research. The overwhelming consensus based on scientific evidence and reputable studies has reached only one conclusion: genetically-modified foods are completely safe.
- The Board of Editors of the Scientific American noted that: “The U.S. Food and Drug Administration has tested all GMOs on the market to determine whether they are toxic or allergenic. **They are not.**”<sup>2</sup>
- The World Health Organization (“WHO”), the U.N.’s public health arm, has weighed in on the safety of GMOs, stating “no effects on human health have been shown as a result of the consumption of [genetically-modified] foods by the general population in the countries where they have been approved.”<sup>3</sup>
- Britain’s *Journal of the Royal Society of Medicine* (“Royal Society”) concurs: “Foods derived from [genetically modified] crops have been consumed by hundreds of millions of people across the world for more than fifteen years with no reported ill effects (or legal cases related to human health) despite many of the consumers coming from that most litigious of countries the U.S.A.”<sup>4</sup>
- Anne Glover, the distinguished Scottish biologist and former chief scientific adviser to the President of the European Commission, has said that there is “‘not a single piece of scientific evidence’ to support critics’ claims that food produced from [GMOs] was less safe than food grown in any other way.” She also stated that “‘No other foodstuff has been so thoroughly investigated as [genetically modified food]’ and . . . described the opposition as ‘a form of madness.’”<sup>5</sup>
- In addition to the WHO and the Royal Society, scientific organizations from around the world, including the European Commission, the National Academy of Sciences, the

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American Association for the Advancement of Science, and every other respected organization have endorsed the safety of GMOs.<sup>6</sup>

- Scientists, including two Nobel Prize winners, authored an opinion article for the journal *Science* entitled “Standing Up for GMOs.”<sup>7</sup> In it they state, “the anti-GMO fever still burns brightly, fanned by electronic gossip and well-organized fear-mongering that profits some individuals and organizations. We, and the thousands of other scientists who have signed the statement of protest, stand together in staunch opposition to the violent destruction of required tests on valuable advances such as Golden Rice [a GMO] that have the potential to save millions of impoverished fellow humans from needless suffering and death.”

- As the *New York Times* has reported, the global scientific consensus “holds that existing genetically-engineered crops are no riskier than others, and have provided some tangible benefits.”<sup>8</sup>

- The use of GMO foods promotes the environment and community improvement. On average, GMO technology adoption has reduced chemical pesticide use by 37%, increased crop yields by 22%, and increased farmer profits by 68%.<sup>9</sup>

**The Ordinance will have a negative impact on the Port of Los Angeles, food costs and important scientific research.**

- The Ordinance’s ban on entry into and sale of GMOs in the City is broad. The Ordinance prohibits GMOs from “enter[ing] . . . into and within [the City] in such a way as to risk genetic contamination of natural Organisms” and prohibits the sale of “Seeds, plants or trees of [GMOs] to any Person within [the City] except as authorized by law.” Sec. 196.02.B & C. *For example, if adopted, the Ordinance would prevent the entry of GMOs, like market-variety papayas currently consumed in Los Angeles,<sup>10</sup> which are genetically modified, and contain seeds.* Under the terms of the proposed Ordinance, any foods or seeds even touching the Port are covered.

- The Ordinance purports to exempt medical, educational, and scientific research, including research at UCLA and USC. However, the Ordinance does not go far enough to protect the research that is typically performed. The Ordinance exemption only covers “activities . . . conducted under secured, enclosed indoor laboratory conditions” Section 196.03.E (emphasis added). But, field trials authorized by the U.S. Department of Agriculture are **outdoor** field trials because the point of this research is to test how plants behave in outdoor conditions. UCLA and USC are holders of USDA permits to use GMOs under controlled outdoor conditions.<sup>11</sup> The Ordinance can place UCLA and USC researchers at risk of violating

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the Ordinance.

- The Ordinance could impact the cost of food. Non GMOs are usually more expensive than GMO foods because conventional crops require more water and more pesticides than GMOs.<sup>12</sup>

**The Ordinance's impact will be illusory; more time should be taken to consider and mitigate negative impacts.**

- The Ordinance will not have the impact intended. Under AB 2470, the City cannot "adopt **or enforce** an ordinance that regulates plants, crops, or seeds without the consent of the [Secretary]." (Emphasis added.) In other words, even if enacted, the City may not be able to enforce the provisions of the Ordinance.
- Even if the City could enforce the Ordinance, AB 2470 indicates that the City cannot enforce the Ordinance "without the consent of the [Secretary]." It will simply add unnecessary costs and work for the City – work outside its key responsibilities.
- Since the Ordinance may not have the impact desired, there is no reason to rush to approve the Ordinance, especially given the significant impacts the Ordinance will have on the Port, on science and research. The City should take its time considering the potential impacts.
- The Ordinance probably conflicts with or is preempted by federal and state law, and is therefore open to legal challenges.
- The Legislature enacted AB 2470 this year to prevent local activist attempts to regulate seeds and plants. The Legislature intended AB 2470 to preempt local regulation and not to allow uninformed emergency enactments by local jurisdictions.
- The California Department of Food and Agriculture has the expertise and is the right entity to regulate plants grown in California. This allows for scientifically-based uniform and fair application and enforcement of the law across all of California.

**Conclusion**

Proponents make contradicting arguments. On the one hand, they argue that the Ordinance is necessary for health and safety; on the other hand, that the impact of the Ordinance is not significant because there is little farming in Los Angeles. They cannot have it both ways. If there is no impact, then the Ordinance is unnecessary. If this impacts health and safety, then

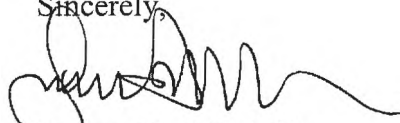


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there should be consideration of the science and impacts behind the policy decision.

Thank you for your consideration.

Sincerely,



George David Kieffer

GDK:ban

cc: Frank Plescia, Esq.  
Andrew Varcoe, Esq., Deputy General Counsel, BIO

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<sup>1</sup> BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products.

<sup>2</sup> "Fight the GM Food Scare," Scientific American Board of Editors, SCIENTIFIC AMERICAN (September 1, 2013).

<sup>3</sup> This information is available at [http://www.who.int/foodsafety/areas\\_work/food-technology/faq-genetically-modified-food/en/](http://www.who.int/foodsafety/areas_work/food-technology/faq-genetically-modified-food/en/). This link was retrieved on December 7, 2014.

<sup>4</sup> "Genetically modified plants and human health," Key, Suzie, Ma, Julian K-C, and Drake, Pasca MW, JOURNAL OF THE ROYAL SOCIETY OF MEDICINE (June 1, 2008). The article is available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2408621/>.

<sup>5</sup> "European Science's Great Leap Backward," Michael Specter, THE NEW YORKER MAGAZINE (November 21, 2014). This article is available at <http://www.newyorker.com/news/daily-comment/european-sciences-great-leap-backward>. Retrieved on December 7, 2014.

<sup>6</sup> See *id.*; see also, e.g., <http://www.aaas.org/news/statement-aaas-board-directors-labeling-genetically-modified-foods>. Retrieved on December 7, 2014.

<sup>7</sup> This article is available at <http://www.sciencemag.org/content/341/6152/1320.full#fn-1>. Retrieved on December 7, 2014.

<sup>8</sup> This article is available at [http://www.nytimes.com/2014/01/05/us/on-hawaii-a-lonely-quest-for-facts-about-gmos.html?\\_r=1](http://www.nytimes.com/2014/01/05/us/on-hawaii-a-lonely-quest-for-facts-about-gmos.html?_r=1). Retrieved on December 7, 2014.

<sup>9</sup> See <http://www.newyorker.com/news/daily-comment/european-sciences-great-leap-backward>. Retrieved on December 7, 2014.

<sup>10</sup> Federal government researchers' development of the GMO Rainbow papaya saved the fruit from the devastating effects of a plant virus in 1996. The majority of Hawaii papayas are now GMO. See [http://www.nytimes.com/2014/01/05/us/on-hawaii-a-lonely-quest-for-facts-about-gmos.html?\\_r=1](http://www.nytimes.com/2014/01/05/us/on-hawaii-a-lonely-quest-for-facts-about-gmos.html?_r=1)

<sup>11</sup> See <http://www.aphis.usda.gov/brs/status/movday.html>.

<sup>12</sup> "Fight the GM Food Scare," Scientific American Board of Editors, SCIENTIFIC AMERICAN (September 1, 2013).