

MEASURE SUBMITTED TO THE VOTERS

COUNTY

**MARIN COUNTY ORDINANCE PROHIBITING
GROWING OF GENETICALLY MODIFIED
ORGANISMS INITIATIVE
MEASURE B**

B Shall the ordinance prohibiting growing of genetically modified organisms, with exceptions for medical research and treatment be adopted?

**MARIN COUNTY ORDINANCE PROHIBITING
GROWING OF GENETICALLY MODIFIED
ORGANISMS INITIATIVE
FULL TEXT OF INITIATIVE
MEASURE B**

The County Counsel has prepared the following Title and Summary of the chief purpose and points of the proposed measure:

TITLE: MARIN COUNTY ORDINANCE PROHIBITING GROWING OF GENETICALLY MODIFIED ORGANISMS

SUMMARY: This measure proposes to make it unlawful for any person or entity to propagate, cultivate, raise or grow genetically modified organisms in Marin County. "Genetically modified organisms" are defined by the proposed measure as an organism, or the offspring of an organism (exclusive of human beings and fetuses), the DNA of which has been altered or amended through genetic engineering. Genetic engineering is defined as altering or amending DNA using recombinant DNA technology, and excludes traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, non-directed mutagenesis or tissue culture. Exempted from the proposed prohibitions are state or federally licensed medical research institutions, medical laboratories, or medical manufacturing facilities engaged in licensed medical production, and medical research involving genetically modified organisms provided such activities are conducted under secure, enclosed indoor laboratory conditions, with utmost precautions to prevent release of genetically modified organisms into the outside environment. Also exempted from the proposed prohibitions are licensed health care practitioners providing any diagnosis, care or treatment to any human patient.

The Marin County Agricultural Commissioner is designated by the proposed ordinance to enforce the ordinance through a proposed public nuisance abatement notice and hearing procedure. The proposed ordinance would hold persons who knowingly and willfully violate the ordinance responsible for administrative and abatement costs. The proposed ordinance states that its provisions are cumulative, and nothing in the proposed ordinance would affect any other remedies any individual or government entity may have against any person resulting from a violation of the proposed ordinance. The proposed ordinance, if adopted, would become a part of the Marin County Code. Any person violating the provisions of the Marin County Code may be subject to prosecution for a misdemeanor.

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY
TO THE VOTERS**

PROPOSED ORDINANCE

**THE PEOPLE OF THE COUNTY OF MARIN ORDAIN
AS FOLLOWS:**

**MARIN COUNTY ORDINANCE PROHIBITING
GROWING OF GENETICALLY MODIFIED
ORGANISMS**

Section 1. Findings and Purpose. The People of the County of Marin, desiring to protect our agricultural industry, our natural environment, the private property rights of our citizens, and the health, safety and welfare of our People, deem it advisable and appropriate to restrict the cultivation of genetically modified crops, livestock, and other organisms in our County.

a. Genetically modified life forms and products are being developed with precipitous speed, and have been introduced into the marketplace, often without the consumers' knowledge and before the potential risks and long term health and environmental effects of these products have been adequately studied.

b. Many companies and markets do not accept genetically modified food products. Further, the irreversible danger of contaminating and thereby reducing the value of neighboring crops by genetically engineered crops, creates a serious economic threat to farmers. Finally, the impact on our natural environment from genetically modified organisms, including pollen drift and contamination (GMO pollen can be carried a long distance by migrating and commuting pollinators), is unpredictable, uncontrollable, and has not received adequate study.

c. The Natural Systems Element, Agriculture and Food Section, for the 2004 Marin Countywide Plan supports sustainable agriculture and recommends a positive vision for the future of food and farming in our county including greatly improved agricultural viability.

d. For all of these reasons, the People of County of Marin find and declare that the propagation, cultivation, raising, and growing of genetically modified organisms in Marin County is a hazardous activity which constitutes a public nuisance subject to the abatement remedies and procedures set forth under Chapter 1.05 of the Marin County Code.

Section 2. Prohibitions. It is unlawful for any person or entity to propagate, cultivate, raise, or grow genetically modified organisms in Marin County, and any act in violation of this provision is declared to constitute a public nuisance.

Section 3. Exemptions. Nothing in this Ordinance shall make it unlawful for (1) state or federally licensed: medical research institutions, medical laboratories, or medical manufacturing facilities to engage in licensed medical production, or medical research involving genetically modified organisms provided such activities are conducted under secure, enclosed indoor laboratory conditions, with utmost precautions to prevent release of genetically modified organisms into the outside environment, or (2) any licensed health care practitioner to provide any diagnosis, care or treatment to any human patient.

Section 4. Definitions.

(a) "Genetically modified organism" ("GMO") means an organism, or the offspring of an organism, the DNA of which has been altered or amended through genetic engineering.

MEASURE B CONTINUED ON NEXT PAGE



(Full Text of Measure B Continued)

(b) "Genetic engineering" means altering or amending DNA using recombinant DNA technology such as gene deletion, gene doubling, introducing a foreign gene, or changing the position of genes, and includes cell fusion, microencapsulation, macroencapsulation, gene splicing, and other similar processes. Genetic engineering does not include traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, non-directed mutagenesis or tissue culture.

(c) "DNA" means deoxyribonucleic acid, the material naturally found within living cells which contains the genetic code and transmits hereditary patterns.

(d) "Organism" means any living thing, exclusive of human beings and human fetuses.

(e) "Commissioner" means the Agricultural Commissioner of Marin County.

(f) "Person" or "entity" means an individual, partnership, corporation, governmental agency or organization of any kind.

(g) "Indoors" means within a structure meeting the Requirements of the 2001 California Building Code, Section 304 for Group B Occupancies and a minimum of "Type III" construction.

Section 5. Enforcement.

(a) The Marin County Agricultural Commissioner is hereby designated to enforce this Ordinance and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Ordinance.

(b) The Agricultural Commissioner shall notify any person, corporation, or other entity that may be in violation of Section 2 of this Code section, that any organisms that violate this code constitute a public nuisance, subject to confiscation, destruction or quarantine and subject to the nuisance abatement penalties and procedures set forth under Chapter 1.05 of the Marin County Code.

(c) Any person, corporation, or other entity that receives notification under subparagraph (b) shall have fifteen (15) days to respond to such notification with evidence that such organisms are not in violation of this Code, or have been destroyed or entirely removed from Marin County.

(d) Upon receipt of any evidence under subparagraph (c), the Agricultural Commissioner shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. Within five (5) days of receipt of such evidence, the Agricultural Commissioner shall determine if the organisms are in violation of this code, or have been destroyed or removed.

(e) Upon making a determination that a violation of this code exists, or if no evidence has been submitted pursuant to subparagraph (c), upon reasonable notice, the Agricultural Commissioner shall thereafter promptly take all actions necessary to ensure that such organisms do not cause genetic contamination or other harm, including but not limited to the following: confiscation, destruction or quarantine. Such action shall be undertaken during daylight hours.

(f) Either the party effected by the enforcement or the Agricultural Commissioner may thereafter request a hearing provided such request is made in writing within thirty days thereafter. The hearing shall be held in accordance with the nuisance abatement procedures under Chapter 1.05 of the Marin County Code. Violation of Section 2 of this code is not entitled to the privileges and immunities set forth under section 23.03.040 of the Marin County Code exempting pre-existing agricultural activity from nuisance abatement.

(g) Any person or persons knowingly and willfully responsible for a violation of this Ordinance may be held responsible for administrative and abatement costs. Costs of enforcement shall not be imposed upon any person whose violation is not knowing and willful, nor shall costs be imposed for enforcement for crops planted or animals possessed in the County prior to the effective date of this Ordinance. The County Agricultural Commissioner shall submit an annual report to the Marin County Board of Supervisors which describes all complaints received and enforcement actions taken under this Ordinance.

(h) The provisions of this Ordinance are cumulative, and nothing in this Ordinance affects any other remedies any individual or government entity may have against any person resulting from a violation of this Ordinance.

Section 6. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE B**

This measure seeks voter approval for the adoption of a Marin County ordinance bearing the title "Marin County Ordinance Prohibiting Growing of Genetically Modified Organisms."

This proposed ordinance would make it unlawful for any person or entity to propagate, cultivate, raise or grow genetically modified organisms in Marin County. "Genetically modified organisms" are defined by the proposed measure as an organism, or the offspring of an organism (exclusive of human beings and fetuses), the DNA of which has been altered or amended through genetic engineering. Genetic engineering is defined as altering or amending DNA using recombinant DNA technology, and excludes traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, non-directed mutagenesis or tissue culture. Exempted from the proposed prohibitions are state or federally licensed medical research institutions, medical laboratories, or medical manufacturing facilities engaged in licensed medical production, and medical research involving genetically modified organisms provided such activities are conducted under secure, enclosed indoor laboratory conditions, with utmost precautions to prevent release of genetically modified organisms into the outside environment. Also exempted from the proposed prohibitions are licensed health care practitioners providing any diagnosis, care or treatment to any human patient.

The Marin County Agricultural Commissioner is designated by the proposed ordinance to enforce the ordinance through a proposed public nuisance abatement notice and hearing procedure. The proposed ordinance would hold persons who knowingly and willfully violate the ordinance responsible for administrative and abatement costs. The proposed ordinance states that its provisions are cumulative, and nothing in the proposed ordinance would affect any other remedies any individual or government entity may have against any person resulting from a violation of the proposed ordinance. The proposed ordinance, if adopted, would become a part of the Marin County Code, applicable in the unincorporated areas of Marin County. Any person violating the provisions of the Marin County Code may be subject to prosecution for a misdemeanor.

Dated: August 9, 2004

PATRICK K. FAULKNER
County Counsel



ARGUMENT IN FAVOR OF MEASURE B

KEEP MARIN GMO FREE

Measure B is a locally supported, common-sense initiative to protect our health, environment, and farmers.

In Marin County, we pay attention to what we eat and make lifestyle choices that are good for our health and environment. As well-educated consumers, we purchase food that is safe, natural and healthy. Marin's small farmers are famous for the purity of their products and their careful stewardship of our environment.

Measure B protects our HEALTH

Genetically Modified Organisms (GMOs) pose serious health risks to consumers, including new toxins and dangerous food allergies. GMOs have not undergone long-term, independent health or safety testing.

Measure B protects our ENVIRONMENT

Through cross-pollination, GMOs could permanently contaminate our native plants and irreversibly damage our ecosystem. Once GMOs are released into our environment, there is no way to control them.

Measure B protects our FARMERS

Agriculture contributes over \$50 million annually to Marin's economy. Our local organic and sustainable farmers and ranchers deserve the right to keep their land free of GMOs, thus retaining access to important markets. GMO pollen is easily carried by wind, insects and birds, contaminating farms and even the smallest backyard gardens. Passing Measure B will ensure Marin farms can continue to meet the growing demand for organic, pure, and healthy food.

Measure B is clearly written, and does **not** restrict medical research or use.

Approving Measure B will **not** cut services or raise taxes.

Measure B's countywide support includes seniors, families, health-care professionals, farmers, ranchers – all those who care about Marin's future. Measure B's *many* endorsers include:

- THE SIERRA CLUB
- JUDI SHILS, MARIN CANCER PROJECT
- WARREN WEBER, FARMER
- HAL BROWN, MARIN COUNTY SUPERVISOR
- ELSON HAAS MD, PREVENTIVE MEDICAL CENTER MARIN
- ALBERT STRAUS, DAIRY FARMER

Measure B is good for: our health...our environment...our farms...our food...and our future.

Please Vote "YES" on Measure B – KEEP MARIN GMO FREE

www.gmofreemarin.org

- s/ Catherine Caufield
Executive Director
Environmental Action Committee of West Marin
- s/ Paul Hawken
Businessman, Author
- s/ Rev. Bill Eichhorn
Community Congregational Church, Tiburon
- s/ Maureen Cunnie
Cowgirl Creamery, Pt. Reyes Station
- s/ Mark Squire
Business Owner, Good Earth Natural Foods

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

MEASURE B is an unnecessary response to a problem that does not exist and does nothing to improve health, the environment or to help farmers.

MEASURE B does nothing to protect or improve human health

Biotech crops have been tested and approved by the U.S. Department of Agriculture, the Environmental Protection Agency and Food and Drug Administration **for nearly twenty years**. They do not contain human toxins or allergens and there have not been any health risks attributed to eating foods derived from biotech crops.

MEASURE B limits farmers access to proven, environmentally sound technology

Farmers who choose to plant biotech crops do so because they are engineered to use **LESS PESTICIDES** than conventional and organic crops, resulting in healthier crops, an improved environment and increased yield. Biotechnology crops do not require farmers to till the soil, so there is **LESS EROSION** and cleaner water in stream runoff.

MEASURE B does not protect local farmers

The USDA's National Organic Program expressly states that organic farmers are not at risk of losing their "organic certification" for trace amounts of non-organic material. Measure B does nothing to further protect farmers in Marin County.

MEASURE B is not based on facts

The National Academies of Science (NAS) recently released a report that concludes that crops should be regulated **BASED ON SAFETY**, not on how they are grown. (www.nas.edu)

Although it claims not to affect medical research, MEASURE B negatively stigmatizes a technology that has incredible promise to improve the quality of our lives.

s/ Edward Lanphier, President
Sangamo Biosciences

s/ Henry Grossi, President
Marin County Farm Bureau

s/ Kim Tsuchimoto-Evans

s/ Emil Kakkis, Senior Vice-President
Business Operation, BioMarin Pharmaceutical, Inc.

s/ Jennifer A. Troia, Senior Director
Human Resources and Corporate Services,
Sunesis Pharmaceuticals

MEASURE B CONTINUED ON NEXT PAGE



ARGUMENT AGAINST MEASURE B

The proposed ban contradicts the scientific data supporting the safety of biotech plant varieties. In fact, these plants are rigorously regulated by three federal agencies, including U.S. Department of Agriculture, U.S. Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA), to ensure safety for consumers and the environment. In addition, leading medical and scientific organizations have declared their confidence in the safety of biotech foods including the American Dietetic Association, American Medical Association, Institute of Food Technologies, Food and Agriculture Organization of the United Nations, National Academy of Sciences and the World Health Organization.

Biotechnology can reduce dependence on chemical pesticides. Today biotech plant products allow land managers and consumers to reduce pesticide use, soil erosion and optimize land use. In 2001, according to the National Center for Food and Agricultural Policy, eight biotech crops alone decreased pesticide use nationally by 23,000 tons.

The proposed ban runs counter to the county's strong support of environmentally conscientious, technology-based industries. The Bay area has more biotechnology companies — producing agriculture, healthcare, industrial and environmental solutions — than any other region, or for that matter, any other country in the world. The biotechnology industry provides high-skill, high wage jobs to many county residents.

The proposed ban could deny citizens future innovations in healthcare and agriculture. Biotechnology has already yielded significant advances in the battle against diabetes, Parkinson's, AIDS, cancer and other diseases. As medical and agricultural biotechnology converge, a ban on plants produced through biotechnology could prevent significant improvements to our future quality of life.

s/ Edward Lanphier, President
Sangamo Biosciences

s/ Henry Grossi, President
Marin County Farm Bureau

s/ Kim Tsuchimoto-Evans

s/ Emil Kakkis, Senior Vice-President
Business Operation, BioMarin Pharmaceutical, Inc.

s/ Jennifer A. Troia, Senior Director
Human Resources and Corporate Services,
Sunesis Pharmaceuticals

REBUTTAL TO ARGUMENT AGAINST MEASURE B

The **FACTS**

Credible Safety?

The Bush Administration's FDA policy presumes GMO safety, despite the objections of many FDA scientists.

Bush Administration agencies have **not** required *any* long-term health studies, even though the FDA recalled over 10,000,000 food products due to **severe** allergic reactions from GMO contamination.

"This technology is being promoted, in the face of concerns by respectable scientists and in the face of data to the contrary, by the very agencies which are supposed to be protecting human health and the environment ... It is being rapidly deployed with almost no thought whatsoever to its consequences." [Dr. Suzanne Wuerthele, EPA toxicologist]

Pesticides?

A comprehensive 2003 study shows that GMO crops planted in the U.S. since 1996 have **increased** pesticide use by 25,000 tons.

Deny Healthcare?

- Measure B explicitly **permits** indoor medical research, production and treatment.
- Measure B will **not** restrict the development of prescription drugs.

Jobs?

- Measure B will **not** endanger biotechnology employment.
- Measure B **protects** farm income.
- Measure B **won't** raise taxes.

Who do you trust?

Measure B is *supported* by local farmers and concerned citizens. Non-Marin corporations, including Monsanto and Dow Chemical, have opposed similar measures.

"Monsanto should *not* have to vouchsafe the safety of biotech food. Our interest is in selling as much of it as possible." [Monsanto Director of Communications]

Measure B opponents claim federal agencies are protecting us, but **do we trust the Bush Administration and Monsanto** to look out for Marin's health and environment?

We need Measure B to protect our health, environment and farmers.

Please VOTE "YES" on Measure B.

(415) 454-9898 www.gmofreemarin.org

s/ Peter J. Martinelli
Fresh Run Farm, Marin County Farmer

s/ Virginia "Ginger" Souders-Mason, Chair, Marin Beyond Pesticides Coalition; Research Coordinator, Marin Cancer Project; Director, Pesticide Free Zone Campaign

s/ Frank Egger
Mayor of Fairfax

s/ David Evans
Grass-Fed Beef Rancher, Marin Sun Farms

s/ Julie Grantz, Sustainable Novato; Past President, Environmental Forum of Marin; Board Member, Environmental Education Council of Marin

END OF MEASURE B

