

FULL TEXT OF MEASURE Q-04

COUNTY ORDINANCE PROHIBITING GROWING OF GENETICALLY ENGINEERED ORGANISMS

Section 1. Finding. The people of San Luis Obispo County wish to protect the county's agriculture, environment, economy, and private property from genetic pollution by genetically engineered organisms until all the risks associated with these organisms are fully understood.

Section 2. Prohibition. It shall be unlawful for any person or entity to propagate, cultivate, raise, or grow genetically engineered organisms in San Luis Obispo County.

Section 3. Exemptions. Nothing in this Ordinance shall make it unlawful for (1) a fully accredited college or university to engage in scientific research or education using genetically engineered organisms under secure, enclosed laboratory conditions, taking precautions to prevent contamination of the outside environment, or (2) any licensed health care practitioner to provide any diagnosis, care or treatment to any patient.

Section 4. 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.

Section 5. Definitions.

- (a) "Genetically engineered organisms" means specific organisms whose native intrinsic DNA has been intentionally altered or amended with non-species specific DNA. Such organisms are also sometimes referred to as "genetically modified organisms" or "GMO's".
- (b) "Genetic engineering" means altering or amending DNA using recombinant DNA technology. For purposes of this ordinance, genetic engineering does not include traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, tissue culture, or to microorganisms created by moving genes or gene segments between unrelated bacteria.
- (c) "DNA" or 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) "Agricultural Commissioner" means the Agricultural Commissioner of San Luis Obispo County.
- (f) "Person" means an individual, partnership, corporation or organization of any kind.

Section 6. Penalties.

- (a) The Agricultural Commissioner shall notify any person, firm, or corporation that may be in violation of Section 2 of this Ordinance that any organisms in violation of this Ordinance are subject to confiscation and destruction.
- (b) Any person, firm, or corporation that receives notification under subparagraph (a) shall have five (5) days to respond to such notification with evidence that such organisms are not in violation of this Ordinance.
- (c) Upon receipt of any evidence under paragraph (b), the Agricultural Commissioner shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. The Agricultural Commissioner shall make such determination as soon as possible, but at least before any genetic pollution may occur
- (d) Upon making a determination that a violation of this Ordinance exists, the Agricultural Commissioner shall cause to be confiscated and destroyed

any such organisms that are in violation of this Ordinance before any genetic pollution may occur.

- (e) If the Agricultural Commissioner determines there has been a violation of this Ordinance, in addition to confiscation and destruction of any organisms that are found to be in violation, the Agricultural Commissioner shall impose a monetary penalty on the person, firm, or corporation responsible for the violation, taking into account the amount of damage, any potential damage, and the willfulness of the person, firm, or corporation.

IMPARTIAL ANALYSIS BY COUNTY COUNSEL FOR MEASURE Q-04

This measure will determine whether the People of the County of San Luis Obispo shall adopt an ordinance prohibiting any person or entity from propagating, cultivating, raising, or growing genetically engineered organisms in San Luis Obispo County ("the County").

Pursuant to Elections Code section 9118, the County Board of Supervisors has decided to submit to the voters of the County the question of whether an ordinance should be established prohibiting the growing of genetically engineered organisms within the County.

The ordinance makes any genetically engineered organism (as defined by the ordinance) subject to confiscation and destruction by the County Agricultural Commissioner. The ordinance authorizes the Agricultural Commissioner to notify any person (which includes an individual, partnership, corporation, or organization) who may be in violation of the ordinance that such organisms are subject to confiscation and destruction. The ordinance provides for a person that receives such notification from the Agricultural Commissioner to respond with evidence that such organisms are not in violation of the Ordinance. The ordinance requires the Agricultural Commissioner to consider the evidence presented by the person notified, together with any other evidence that is presented or which is relevant to a determination of the violation. The Agricultural Commissioner is required to make a determination as to whether there is a violation of the ordinance before any genetic pollution might occur, and to confiscate and destroy any organism subject to the ordinance before any genetic pollution might occur. The ordinance also provides for the imposition of a monetary penalty by the Agricultural Commissioner, which shall take into account the amount of any actual or potential damage, and the willfulness of the person charged with the violation.

The ordinance would exempt from the prohibitions of the ordinance the use of genetically engineered organisms to be used by a fully accredited college or university for the purpose of engaging in scientific research or education under secure, enclosed laboratory conditions. The ordinance also exempts the provision of diagnoses, care or treatment to any patient by a licensed healthcare practitioner.

If the measure passes, the ordinance may be subject to legal challenge based on principles of preemption by federal or state law and procedural and substantive due process.

A "yes" vote on this measure is a vote in favor of adopting an ordinance prohibiting any person or entity from propagating, cultivating, raising, or growing genetically engineered organisms in the County.

A "no" vote on this measure is a vote against adopting an ordinance prohibiting any person or entity from propagating, cultivating, raising, or growing genetically engineered organisms in the County.

s/ JAMES B. LINDHOLM
County Counsel

FISCAL IMPACT STATEMENT FOR MEASURE Q-04

If adopted, this measure will have impacts on revenues and expenditures of San Luis Obispo County that are difficult to project. The impacts will depend on future events, including policy decisions of the County Board of Supervisors, and on the level of voluntary compliance.

If the County relies primarily on farmers and biotechnology firms ("producers") to voluntarily comply, then costs could be minimal. However, should the level of compliance prove unacceptable, then the Agricultural Commissioner's Office would need additional funding to monitor producers and search for violations. This cost is estimated at \$200,000 per year initially, and more in the future. There are no known existing revenues to offset this cost. County general revenues would be utilized, thus reducing funding available for Public Safety, Health and Social Services, Parks, Roads, and other services provided by the County.

If violations are suspected, then the measure requires notification to the producer, consideration of evidence submitted, and eventual confiscation and destruction of the prohibited organisms. These costs cannot reasonably be projected, but are likely to be significant. Expensive laboratory testing and legal challenges would be expected before a grower would agree to destruction of his crop or before a pharmaceutical development firm would relinquish its research base materials. If the producer is found to be in violation of the ordinance, the measure provides that the Agricultural Commissioner shall impose a monetary penalty. Revenue from the penalty would be available to partially offset the County's investigation and abatement costs, but actual collection from a producer losing his product would often not be possible.

Should genetically engineered organisms become more prevalent, there will be general impacts on the local economy, potentially resulting in gains or losses of revenues to San Luis Obispo County. For example, if farmland becomes more or less valuable, then property tax revenues would increase or decrease. If jobs in farming or life science industries are gained or lost, there would be more or fewer workers making purchases that generate sales tax revenue. Some believe this measure will benefit local farming operations by making their products more saleable. Others contend that the measure will prevent utilization of profitable new varieties and technologies, cost jobs, and make County agricultural commodities less competitive in the marketplace. Accordingly, we are not able to reasonably estimate the fiscal impact from general economic effects if this measure is adopted.

/s/ Gere W. Sibbach, CPA
Auditor-Controller

ARGUMENT IN FAVOR OF MEASURE Q-04

Yes on Measure Q!

Genetic engineering (GE) is a process that **never** occurs in nature. This technology is different from traditional plant breeding. GE organisms are created by forcing the genes from one species into another.

Measure Q: YES for our economy!

Keeping SLO County free of *genetically engineered* (GE) crops maintains our strong agricultural economy.

Our U.S. and international trading partners are demanding GE free crops. **Having pure crops will ensure a market advantage for our county's \$529 million agricultural economy.**

The American Farm Bureau estimates that U.S. exporters have lost about \$300 million per year because of GE corn.

San Luis Obispo has an abundant and diverse farming and ranching economy. **Why jeopardize what is working for something that is economically risky and unproven?**

Measure Q: YES for farms and farmers!

GE food, pharmaceutical and industrial crops can contaminate conventional food crops at many points: seed production and transport, cross-pollination, harvest, milling, storing, and processing.

Such contamination has already occurred:

- In 2001, 1% of Iowa cornfields were planted with a GE corn but 50% of Iowa's corn harvest was contaminated.
- In 2002, a pharmaceutical corn contaminated soybeans grown on the same ground a year later. 500,000 bushels of soybeans were destroyed.

Contamination raises liability questions for farmers and property owners.

From 2001-2003, over 73 million more pounds of pesticides were applied on GE acres than on non-GE acres.

Some GE crops are classified as pesticides by the EPA. The plant is the pesticide!

Yes on Q!

Fetzer Vineyards states: "... as the U.S.'s organic vineyard leader, **Fetzer supports Measure Q** as appropriate action until such time as the long-term consequences of GMO crops and animals in the food chain are fully understood."

Measure Q is good for what we grow. It's good for what we eat.

www.slogefree.org

s/ Terri Carlson, M.D.

s/ Dr. Margaret C. Carman

s/ Eric Michielssen, Co-Owner, Clark Valley Farm

s/ Bill Spencer, Owner, Windrose Farm

s/ Matt Trevisan, Owner & Winemaker, Linne Calodo Winery

REBUTTAL TO THE ARGUMENT IN FAVOR OF MEASURE Q-04

NO ON Q!

MEASURE Q ISN'T JUST ABOUT CROPS.

GMOs and GMO products are widely used in diverse industries including medicine, food and beverage production, as well as agriculture.

Q BANS PRODUCTION OF ALL GMOs IN OUR COUNTY.

Likely impacts include:

- Technology jobs go elsewhere because SLO is labeled unfriendly to technology.
- Development of life-saving medicines like insulin and cancer treatments prohibited.
- Development of cleaner industrial processes using GMOs prohibited.
- Cost-saving, environment-friendly crops outlawed.

Q CANNOT BE ENFORCED.

- Ag Commissioner has no current expertise or funding to regulate all GMOs.
- Developing expertise would be extremely expensive to SLO citizens.

Q HARMS SLO'S BROAD FARM ECONOMY.

- American Farm Bureau estimates a gain of **\$1 BILLION** in trade for GMO soybeans to China alone.
- Hawaii's papaya industry was saved from a devastating virus because of the development of GMO papaya trees.
- Grape growers will be able to protect their industry from Pierce's Disease.

GET THE FACTS STRAIGHT!

- International acceptance for GMO crops is **growing** (EU just approved GMO sweet corn; 4 million farmers in China grow GE cotton).
- GMO crops are **safe** (all evidence shows biotech crops are as safe as non-biotech crops).
- GMO crops **reduce** use of more expensive, toxic, carcinogenic or persistent chemical treatments.

MAKE YOUR DECISION BASED ON FACTS, NOT ON FEARFUL CLAIMS.

For more information, check balanced websites like:

- Cornell University: <http://www.geo-pie.cornell.edu/issues/issues.html> and <http://www.nysaes.cornell.edu/comm/gmo/>
- Colorado State University: <http://www.colostate.edu/programs/lifesciences/TransgenicCrops/>

BE INFORMED.

NO ON Q!

s/Eric Djafrودي, President Central Coast Greenhouse Growers Association

s/Scott Steinmaus, Ph.D. Plant Biologist

s/Roger A. Miller, President San Luis Obispo County Cattlemen Association

s/Susan Elrod, Ph.D. Geneticist

s/Don Talley, Owner Talley Vineyards

ARGUMENT AGAINST MEASURE Q-04

GENETIC RESEARCH IS ABOUT BENEFITING SOCIETY AND THE ENVIRONMENT

MEASURE Q WILL NOT IMPROVE THE ENVIRONMENT OF SAN LUIS OBISPO COUNTY

Through genetic modification, farmers apply less pesticides and herbicides and also reduce the cultivation of a field. This improves air and water quality through lower emissions from tractors and less soil compaction. Moreover, worker safety is improved. Current genetic research is underway to combat Pierce's Disease and West Nile Virus, which could benefit the community.

MEASURE Q PREVENTS A SAFE, HEALTHY AND AFFORDABLE FOOD SUPPLY

The United Nations, World Health Organization, American Medical Association, and the National Academy of Sciences have examined the health and safety issues. The UN recently reported that genetically modified crops "pose no more risk than conventionally grown crops" and "there have been no verifiable reports of them causing any significant health or environmental harm."

MEASURE Q COULD DENY CITIZENS LIFE-SAVING TECHNIQUES

Researchers are creating ways to boost the nutritional value of foods using genetic modification. For example, Vitamin A was added to rice to assist with the fight against hunger in developing nations. Furthermore, this technology has already yielded significant advances in the battle against diabetes, Parkinson's, AIDS, cancer and other life-threatening diseases.

MEASURE Q COULD CUT VITAL SERVICES AND INCREASE TAXES

This initiative calls for the county Ag Commissioner to execute the prohibition. With the current fiscal status of our county and state, this un-funded mandate will increase the financial burden on all of our pocketbooks. Three federal consumer protection agencies – the FDA, EPA and USDA – are already responsible for assuring the safety of genetically modified organisms.

MEASURE Q IS NOT BASED ON SOUND SCIENCE

MEASURE Q IS NOT SOUND POLICY

VOTE NO ON MEASURE Q!

s/ Thomas T. Ikeda, President San Luis Obispo County Farm Bureau
s/ Jan Haynes Director, San Luis Obispo-based medical device company
Member, Cal Poly Biotechnology Industry Advisory Council
s/ Richard Quandt, President Grower-Shipper Vegetable Association
s/ Lauren R. Brown, Ph.D. Manager, local biotechnology company
Member, Cal Poly Biotechnology Industry Advisory Council
s/ Kevin Merrill, President Central Coast Wine Growers Association

REBUTTAL TO ARGUMENT AGAINST MEASURE Q-04

Measure Q maintains our safe, healthy, and affordable agriculture.

Measure Q prohibits the **growing** of GE organisms, **not the sale** of foods or medicines.

Measure Q **WILL ALLOW**

... university research.

... all currently used grape growing practices.

... farm workers to be safe from increased chemical use that accompanies GE herbicide tolerant crops.

... the use of animal feed with GE byproducts.

... private property to remain free from GE contamination.

... the planting of "Vitamin A Rice" – or other crops – in developing countries.

Measure Q: YES for GOOD Science. GE is technology, not science – and it's unproven.

The FDA, EPA, and USDA leave testing of GE crops to the same companies that make them. The Center for Food Safety believes such lax testing requirements must be improved before there can be confidence in the safety of GE foods.

The National Academy of Sciences agreed in a July 27, 2004 report:

"A significant research effort should be made to support analytical methods of technology... to detect health changes in the population that could result from genetic alteration and, specifically, genetic engineering of food."

Genetic engineering isn't the path to progress. Techniques that use genetics and biotechnology, like marker-assisted breeding, can solve problems like Pierce's Disease without the risks of GE.

Testing for the presence of GE is not expensive. Enforcement costs would be tiny compared to the billions lost to U.S. agriculture and taxpayers because of GE crops.

Measure Q: YES for pure and wholesome SLO agriculture.

s/ Mike Cirone, Owner, Cirone Farms
s/ Irv McMillan, Rancher
s/ Lyle Overley, Nipomo Flower & Tomato Grower
s/ Jeffrey W. Pipes, Owner, Pipestone Vineyards
s/ Ryan Rich, Owner, Four Elements Farm