



STATE OF WEST VIRGINIA
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June 24, 2010

David F. Snively, Esq.
Senior Vice President, Secretary and General Counsel
Monsanto Company
800 N. Lindbergh Boulevard
St. Louis, MO 63167

Re: Roundup Ready 2 Yield representations

Dear Mr. Snively:

As you are aware, our office has had an interest in Monsanto's activities with regard to its control over genetic traits of agricultural plants producing commodities such as cotton. My office has been looking into Monsanto's activities with regard to soybeans and certain promotions used by Monsanto to encourage farmers to switch from soybeans containing the first generation Roundup Ready trait to the Roundup Ready 2 Yield trait. Monsanto has consistently claimed that farmers planting soybeans containing the new trait will realize yields of 7-11% over soybeans containing Monsanto's original Roundup Ready trait. My office is concerned that West Virginia farmers are paying much higher prices for soybeans with the Roundup Ready 2 trait when the yields do not live up to the claims and do not justify the increased prices.

According to U.S.D.A. agricultural statistics, soybean yields in West Virginia for 2008 and 2009 were the same at 41 bushels per acre. West Virginia harvested approximately 18,000 acres in 2008 and 19,000 acres in 2009. Although we are aware that Monsanto's initial commercial Roundup Ready 2 Yield sales for 2009 were not a full scale rollout, we would have expected to see some increased yield for West Virginia as a result of your company's representations to farmers.

I am aware that other factors contribute to yields varying from year to year such as weather or soil conditions, but virtually all of the studies conducted by major universities and independent testing companies corroborate West Virginia's experience. We are very concerned that with the completion of the 2010 planting season for soybeans, the farmers have paid higher prices for soybeans and will experience essentially no change in yield.

For example, tests conducted by the Farmer's Independent Research of Seed Technologies ("F.I.R.S.T.") for soybean crops planted during the 2009 growing season demonstrated that, on average, Roundup Ready 2 Yield soybeans had essentially the same yield as the original Roundup Ready soybeans. As you know, F.I.R.S.T. is an association of farmers that performs independent testing of soybean and corn seed technologies. F.I.R.S.T. is not alone in recording yield expectations for Roundup Ready 2 Yield soybeans falling below advertised production levels. As reported in Bloomberg.com, "Monsanto Facing 'Distrust' as It Seeks to Stop Resurgent Dupont," November 10, 2009, OTR Global, an investment research organization, issued a report October 27, 2009 describing the unremarkable performance of the Roundup Ready 2 Yield soybeans.

About 20 farm managers and seed distributors in five states said in a report released Oct. 27 that yields from the new soybean seeds didn't meet their expectations, said Jon Gates, research director at OTR Global, the research firm that conducted the study.

"The initial performance here is not meeting the expectation in a pretty broad area," Gates said in a telephone interview.

<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=acv4aBI1Q4Ng>.

In addition, our office reviewed studies conducted by major agricultural universities with regard to soybean yields for Roundup Ready 2 Yield and original Roundup Ready varieties and results from studies at Pennsylvania State University, Iowa State University and others tend to show that the yields, on average, with regard to the Roundup Ready 2 plants grown in 2009 do not meet Monsanto's advertised claims.

Under the West Virginia Consumer Credit and Protection Act ("Act"), "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful," W. Va. Code § 46A-6-104. In West Virginia, the Act applies to a person to whom a sale is made for a "personal, family, household or agricultural purpose." W. Va. Code § 46A-6-102(2). Sales of soybeans to farmers are consumer transactions within the terms of the West Virginia Consumer Credit and Protection Act. It is an unfair or deceptive act or practice to represent that goods have characteristics, uses or benefits they do not have. W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A-6-102(7)(E). It also is unfair to represent that goods have a particular standard, quality or grade that they do not have. W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A-6-102(7)(G).

We are particularly concerned that farmers relied on advertisements made by Monsanto touting the increased yields of 7-11% for Roundup Ready 2 Yield soybean seeds over original Roundup Ready seeds. Misrepresentations made in advertising with the intention that others rely

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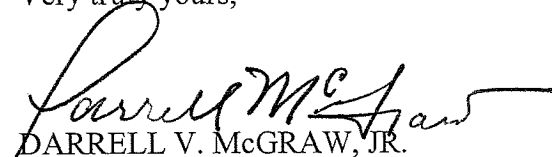
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upon them, whether or not anyone has been deceived, are also unfair or deceptive acts or practices in violation of West Virginia law. W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A6-102(7)(M) and (N). Thus, it appears that if the claims made by Monsanto with regard to Roundup Ready 2 Yield cannot be substantiated with regard to the increased yield by the plants, then Monsanto would be in violation of West Virginia law.

If Monsanto is found to be in violation of the Act, it would be subject to equitable remedies including injunctive relief, restitution, and disgorgement as well as civil penalties and attorneys' fees.

Because of the significant issues involved with regard to Monsanto's advertising and representations, my office is agreeable to meeting with your company to discuss these issues and anything the company believes we should consider before moving forward with compulsory process or actual litigation. Please feel free to contact my Chief Deputy, Frances A. Hughes, to arrange a meeting.

Very truly yours,


DARRELL V. MCGRAW, JR.
ATTORNEY GENERAL

cc: The Honorable John D. Rockefeller IV
405 Capitol Street
Charleston, WV 25301-1749