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Sowing seeds of discord

SUE NEALES THE AUSTRALIAN APRIL 19, 2013 12:00AM



West Australian farmer Steve Marsh, who is suing his long-time friend Michael Baxter, claims his neighbour's GM crops contaminated his organic farm. Picture: Marie Nirme Source: The Australian

STEVE Marsh and Michael Baxter grew up like bush twins in a small southern sheep and wheatbelt rural community near Kojonup, Western Australia.

As small boys they attended tiny Glenorchy rural school; later they went to the same parties and worked in the same shearing sheds.

As adults they farmed next to each other at Changerup, near Boyup Brook; generations of their families since the 1860s had been friends and the two men played for the same tennis club and manned the local fire truck together.

But now the two farmers, neighbours and universally acknowledged "good blokes" are no longer speaking.

Their friendship has been ripped apart in a Shakespearean feud over the growing of hi-tech genetically modified crops and the rights of farmers to manage their properties as they each see fit.

It is a dispute that is before the WA Supreme Court, in a landmark civil case set to be heard later this year.

Marsh, 49, is suing his former classmate, Baxter, 48, for loss of income and compensatory damages after harvested seed heads of a special variety of GM canola allegedly blew from Baxter's property across a dirt lane and over a boundary fence on to Marsh's organic farm in November 2010.

The laboratory-created seed variety then allegedly germinated on Marsh's land, and the GM contamination cost him his hard-won organic status and lucrative export contracts for his organic oats, and local deals for organic wheat, spelt, seeds and lamb.

The case is touted to set a national precedent for the place of contentious but cutting-edge GM crops in Australian agriculture.

It also is being watched by farmers here and overseas, as any court ruling ordering 2km or 3km-wide protective buffer zones be placed around GM crops -- or organic farms -- would significantly erode usable farming land.

Present regulations, while they vary between states, require buffer zones around GM crops such as Baxter's, of just 5m to 20m. About 10 per cent of Australian canola production is now of GM varieties, although Tasmania and South Australia still ban their use.

The Perth-based anti-GM Safe Food Foundation, which is championing Marsh's cause, sees the case as critical to protecting the rights of consumers to choose what they eat.

"This is a battle for what our future food supply will look like," SFF director Scott Kinnear says. "But it is sad that it is farmers on both sides fighting this test case -- not the GM seed companies like Monsanto -- because the lives of the Baxters and Marshes have been turned upside down."

Marsh claims Baxter's GM canola -- a lab-manipulated strain that has a gene from a soil bacteria inserted into its DNA to prevent it being damaged when Roundup weedkiller is sprayed on a crop -- blew into his land, then re-germinated after a January 2011 thunderstorm, some of it flourishing 1.2km from the boundary fence he shares with Baxter.

"It self-seeded, and not just one or two plants," says Marsh, reluctant to speak about some aspects of the evidence ahead of the looming court case.

"My sheep were also grazing some of those contaminated paddocks; (but) to be organic it's zero tolerance of GM. It meant I lost my organic certification; NASAA (the National Association for Sustainable Agriculture Australia) inspected my place and because there were GM canola plants on the farm, my legal contract with the Organic Federation of Australia was broken."

NASAA chairman Jan Denham confirms to The Australian that when her organisation, which is responsible for national organic certification and standards, verified the presence of genetically engineered plants growing on large parts of Marsh's 480ha farm, it had no option but to strip him of his organic status, painstakingly acquired six years earlier.

"There was evidence of GM seed growing on his property; we know that was not his fault, that it was not deliberate, but that is not the issue," Denham says.

"NASAA's national certification standards and international export standards clearly state that 'any GM organism is prohibited' (on an organic farm) so (Marsh) had to be decertified because there was clear evidence of contamination of genetically engineered canola on his place."

For Marsh it was a huge blow.

The loss of organic status -- he decided not to continue down the path of industrial and chemical farming about 15 years ago -- led to most of his livelihood disappearing in one foul wind in 2010.

Marsh can no longer legally label as organic the produce from 70 per cent of his farm. He is also struggling to find enough pasture in his remaining few uncontaminated paddocks for his sheep and lambs to graze, or their meat can never be sold as organic again.

Marsh acknowledges he is suffering financially, that he doesn't know if he will get his organic buyers back or his organic status.

He knows the stakes of bringing the landmark case are high, even though his case is being backed pro bono by well-known class action law firm Slater & Gordon, with further financial help from the SFF.

If he loses, Marsh fears he may have to sell his property, in an area where his family has farmed for 150 years. "I still feel I had no choice but to bring the case because we have been impacted in such a big way (by GM contamination) that there was no option. The worst thing is that I don't know how long this will go on."

Denham says Marsh's lost organic certification is under review. But she says there are no set rules in cases of GM contamination such as Marsh's. "We can't be definitive; the farm will remain (organic) decertified until it can be guaranteed there is no continued contamination or re-pollination of GM plants

and that there are risk-management systems in place if it does appear again; that might be longer than three years or it could be less."

Marsh's lawyer Mark Walter says the case centres on the economic harm suffered by one farmer as a result of the actions of his neighbour, as well as about how the law -- and government regulations -- keeps abreast of technology. "In a small community it's a lot tougher than just the legalities; (Steve's) been demonised for doing this and that's pretty hard when that community is your home."

From where he sits on his serene 1175ha wheat and sheep farm Sevenoaks, northwest of Kojonup, Baxter feels more like a victim than aggressor. As publicity about the case has spread -- including the holding of rock concerts in Perth to raise money for Marsh -- Baxter fears that, in the wider Australian community at least, he is seen as some sort of belligerent ogre or multinational "tool", deliberately contaminating his innocent neighbour's paddocks with GM canola to prove an ideological point.

He says nothing could be further from the truth.

When in May 2010 he first planted 85ha of the newly approved "Roundy Ready" GM canola licensed by Monsanto -- just a few months after it had been approved by the WA government for commercial farming -- Baxter said he observed all regulations.

He left buffer zones and notified all his neighbours, including an unhappy Marsh, that he had planted a GM canola crop. Then, in October, just as his canola was flowering, Marsh came to Sevenoaks and asked Baxter to sign a letter acknowledging that if Marsh's organic farm was contaminated with GM material, he understood legal action would follow.

Baxter said he was appalled at the abrasiveness of the letter and the apparent determination of a close friend and neighbour to resort to the courts ahead of the usual friendly chat over the boundary fence, if any problems -- at that point nonexistent -- eventuated.

He refused to sign the letter.

Marsh now acknowledges, but does not appear to regret, that the serving of formal warning legal letters on neighbours reinforcing that his farm must remain a GM-free zone crossed an invisible line and somehow broke an unwritten code of the bush. "I know the letters were controversial, but we felt we had no choice -- but I didn't enjoy doing that," Marsh says. "I guess they felt threatened and I don't blame them; in a small community like this it's more often about helping each other so this sort of thing (serving legal notices) really divided the community in a way me being organic never had."

It was the last time the boyhood friends would speak. A month later, according to Marsh, his worst fears came to pass.

After Baxter cut his canola and laid it out into rows to dry for a fortnight, two days of strong winds followed.

First Marsh says he found dried stalks and seed heads from the winnowed canola on his property, mainly trapped in fences; two months later he ominously discovered seedlings of canola -- which he has never grown -- flourishing across his farm.

Changerup and Glenorchy have not been the same since.

Social functions, whether it is local barbecues, tennis club events or school fundraising trivia nights, are now stilted affairs.

While the two men -- they refer to each as "my neighbour" -- say they can tolerate being in the same room or rural fire brigade meeting by just ignoring each other, many mutual friends can't, choosing to tackle one or the other over their stand or actions.

"We had known each other all our lives -- he had sheared with me and I had worked for his father," says Marsh, reluctant to speak about the impact of the case on the local community.

"It's been a bit sad; the community is all right but it's complicated. While a lot of people get along with both parties and say they respect both our situations, it doesn't change the effect of an event like this happening."

Baxter says he finds it hard not to feel bitter when he thinks about the past two years of wrangling, the loss of a close friendship and the divisions it has caused within Changerup. His wife, Zanthé, and three sons also have felt the chill.

"We used to be neighbours and friends," Baxter says, sitting atop his wool bales at the end of a hot day's shearing. "And the impact has not just been on us; people around here have taken sides depending on what they believe in. It has torn apart what used to be a close-knit community.

"Wherever we go, there is all this talk around the place, particularly if we are both in the same room, with people saying 'you shouldn't have done this or that', and looking at the further implications and worrying they too could now be sued."

Baxter says he smiles wryly when Marsh portrays himself in the media as "the little guy fighting the multinationals".

"I think it is us (who) are the little guys, not him. He's now got all these big, well-funded extremist groups behind his cause, like Greenpeace, and all these city types like Slater & Gordon fundraising for him and holding rock concerts because they say it is a landmark case.

"Unfortunately I think Steve has fallen into the trap of being used by these anti-GM people with their global agenda; I'm afraid this case seems to have become nothing about him and me down here but all about these people determined to get GM crops banned worldwide."

Marsh disagrees that his case is being manipulated and used by global environmental groups for their own purposes.

He says he is no fool and no one's lackey. Equally, he is passionate about his right to farm in the way he wants, and under the farming management system he believes is best for his land, his animals, his family and consumers.

"When I started this, I had an open mind about GM technology as long as didn't affect me as a farmer," Marsh says. "But now I have read thousands of documents since this all began; I really do have concerns about many more things about the technology and whether GM food is safe."

He is less certain when asked whether the issue is worth the discord the case has caused on his doorstep in such a pastoral and peaceful community.

"It does sometimes feel lonely but we have the support of the public and some very good friends and I had to do it (bring the case); there was no alternative," Marsh says. "But I also can't help but know a lot of what Michael has gone through; one thing I do know is that there's no real winners in this case, whoever wins."