



THE CENTER FOR  
FOOD SAFETY



EARTHJUSTICE

October 18, 2013

Honorable Bernard P. Carvalho, Jr.  
Mayor, County of Kauai  
4444 Rice St., Suite 235  
Lihue, HI 96766  
FAX: 808-241-6877

**Sent by Mail and Facsimile**

Dear Mayor Carvalho,

Now that Bill 2491, as amended, has been passed by the Kauai County Council, Earthjustice and the Center for Food Safety would like to reiterate our commitment to defend the bill in the event of any legal challenge by the pesticide industry. We are working with interested community groups and individuals on a *pro bono* basis and are prepared to intervene in the event that the chemical companies challenge the bill in court.

Earthjustice is a national, nonprofit, public interest environmental law firm. Paul Achitoff has been Managing Attorney for the Honolulu office for the past twenty years, and during the past ten years he has focused on legal issues related to genetic engineering and the use of pesticides.

Center for Food Safety is a national, public interest organization with more than 300,000 members nationwide. CFS works to protect human health and the environment by curbing the use of harmful food production technologies. George Kimbrell is a Senior Attorney with CFS and practices environmental and administrative law in several areas including genetically engineered foods; transgenic plants, and pesticides.

Together, we have worked together on several landmark lawsuits in Hawai'i and nationally concerning genetically engineered (GE) crops and pesticides. We are familiar with the state and federal laws directly and indirectly governing such crops and pesticides as well as other environmental laws.

As we stated in our letter published in the Garden Island on October 3, we believe that Bill 2491 is sound, and the mere threat of a lawsuit by industry interests should not prevent you or the County from taking action you believe is important to the community.

We urge you to allow Bill 2491 to become law. We will be there to defend it.

Respectfully,

Paul Achitoff  
Managing Attorney  
Earthjustice, Mid-Pacific Office

George Kimbrell  
Senior Attorney  
Center for Food Safety



**CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW**

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October 23, 2013

Mauna Kea Trask, Esq.  
Deputy County Attorney  
County's Office of the Prosecuting Attorney  
[mtrask@kanai.gov](mailto:mtrask@kanai.gov)

Re: Pro Bono Representation re Bill 2491 Relating to Pesticides and Genetically  
Modified Organisms

Dear Mr. Trask,

This is to confirm our recent conversation.

As you know, on August 11, 2013, I wrote to Chairman Furfaro and Members of the Council to express our willingness, without charge to any party, to defend the legality of Bill 2491 in the event it is enacted and later subject to judicial review as a result of statutory or constitutional claims presented by opponents of the measure.

We stand by that commitment. Should the County accept our offer of pro bono representation, defense may be undertaken in conjunction with the County's Office of the Prosecuting Attorney or other counsel representing the County, as the Council may direct.

As I have discussed with you, we have reviewed Bill 2491 and are aware of the positions of the proponents and opponents of the bill. We believe that a legal challenge will have little chance of success and would largely be initiated in an effort to win preliminary relief delaying implementation of one or more parts of the law and to pressure the Council to repeal the Ordinance to avoid legal fees.

I would be happy to answer any questions that you may have regarding this correspondence.

Sincerely,

Peter A. Schey  
President  
Center for Human Rights and  
Constitutional Law