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To: ATR-Agricultural Workshops <agriculturalworkshops@usdoj.gov>
Subject: Statement of Todd Leake
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Statement of Todd Leake

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to:

DOJ/USDA Public comments “to explore competition issues affecting the agricultural sector in the 21st century and the appropriate role for anti-trust and regulatory enforcement of that sector” (74 FR 165 pp.43724 – 43726)

My name is Todd Leake, I farm 2,000 acres of wheat, soybeans, dry edible beans, sunflower, barley and alfalfa in Grand Forks County, North Dakota, near Emerado. When I formally began my farming career in 1983, I was able to choose seed from an array of seed companies as well as from the foundation seed program of North Dakota State University, as well as varieties from different agricultural universities and Ag Canada varieties. These varieties of crops were bred to be adapted to my regions’ climate and soil types. Since the late 1990’s all of the seed companies that I had bought seed from have been consolidated into large companies that were formerly chemical companies. The NDSU Foundation seed program still exists, however many of its seed lines have been placed into a proprietary company with franchised, proprietary seed lines. The result of this consolidation has resulted in that almost no new conventional, /non- GMO non-proprietary soybean seed varieties have been produced for my growing region. With fewer independent companies breeding seed for regional markets for varied local conditions, (varieties that tolerate higher pH soils and shorter, cooler growing seasons that prevail in my region), I must risk planting varieties that are not as well adapted to my farm, (longer season varieties and poorer pH chlorosis tolerance). The price of seed has increased during this timeframe. Before seed company consolidation, soybean seed used to reflect a 50% to 100% premium above grain market value, with some new varieties commanding a greater premium due to availability. Now all seed reflects a 400% to 700% price over grain value. With no conventional/non- GMO, non- proprietary soybean seed varieties that are yield competitive available, grain market soybean farmers such as myself, are forced to purchase this inflated high cost soybean seed every year from the same consolidated companies, because I may no longer grow and save my own farm grown seed, because the only economically viable seed varieties are proprietary.

When proprietary, GMO seed first became available; the implied contract against seed saving was a statement on the seed bag, tote or bulk seed receipt stating that the seed may be used only to produce one crop. Today that has been expanded to the requirement of farmers to register with the seed company, where they are provided with a “Monsanto Number” to track that farmers seed purchases to insure compliance with their policies. Lacking this “Monsanto Number” I would unlikely to be able to purchase soybean seed from any company owned or franchised with Monsanto proprietary traits. I have also been visited by private investigators contracted by Monsanto, who entered and sampled my fields contrary to North Dakota State law, and threatened me with litigation without basis. These contracts, tracking systems and intimidation tactics are designed, in my opinion to keep farmers locked within a system that requires them to purchase seed that has fees and revenues leading back to one company.

Seed availability for conventional/No-n GMO, non-proprietary soybean seed has declined dramatically, and of those available there are no varieties that are adapted to my region that have a competitive yield. In the “North Dakota Certified Seed Guide 2009” NDSU 2008 Southern Roundup Ready Soybean Fee Test , there 162 “Roundup Ready” varieties tested, and only 18 Conventional non-GMO varieties tested, and of those 18 varieties, most were for the food grade soy or soy sprout markets. The conventional varieties for the soy grain market were older varieties that yielded only 70% the yield of the newer, Roundup ready varieties. Proprietary

“Roundup-Ready”, varieties have had the focus of both the private sector and public breeding programs, and it is apparent to me that yield and disease resistance genetics , as well as breeding for shorter cooler growing seasons and soil types have been concentrated into strictly proprietary varieties while the grain market conventional varieties have had little further varietal improvement.

Recently, Monsanto Company has purchased Westbred seed. It has announced its intention to pursue the development GMO wheat and has been working to move such a product globally. This development and promotion of GMO proprietary wheat follows closely the same pattern as the promotion and domination of seed supply and business as for other GMO crops in the past. It is my concern that through the industry structure now in place that wheat seed will become proprietary and lead to less variety choice and higher seed prices for myself and other farmers.

I believe that what has happened to the seed industry is an injustice to the farmers and that the seed industry has used its market power, domination of genetic resources and germplasm lines, and the mechanism of proprietary seed to force American farmers to purchase seed from a few companies at inflated prices. I request that the Department of Justice use all powers available to it to enforce anti- trust laws in this situation , and to ensure farmers have access to a wide variety seed varieties at fair prices. I also request that the Department of Justice insure that researchers and crop breeders have access to germplasm and genetic resources to bring new varieties to the seed market for local adaptation, and support legislation to eliminate Utility Patents on crop seed and to reinstate the protections afforded under Plant Variety Protection Act as the exclusive authority in protecting economic interests in seeds and plant genetics.