



## Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

May 17, 2006

Mr. Scott E. Deeter  
President & CEO  
Ventria Bioscience  
4110 N. Freeway Blvd.  
Sacramento, CA 95834

Dear Mr. Deeter:

We are writing to follow up our telephone call with you on April 6, regarding Ventria's production of pharmaceutical rice in North Carolina last year. As you may recall, on the call we discussed several elements of our request for information about Ventria's compliance with USDA permit requirements, as well as various avenues for obtaining such information. Since then, we have received USDA's response to our Freedom of Information Act (FOIA) request, which has sparked some additional concerns. In addition, we continue to be frustrated by the general slowness and public inaccessibility of this sort of information.

Regarding the latter point, we agreed on the call that it is preferable for the public and groups such as UCS to be able to obtain such information directly from USDA. However, we also agreed that the agency's information fulfillment process is often unacceptably slow. Although USDA responded to our most recent FOIA request relatively expeditiously (in just under three months, compared with 20 months and 17 months for previous requests), this still does not allow the public to make timely determinations about the adequacy of company compliance and agency oversight.

We were encouraged by your promise on the call to investigate USDA's public information process and to consider alternatives to ensure that the public has access to information about your company's regulated activities. We would appreciate your telling us:

- What you have found to be the major reasons for the slowness of USDA's response;
- Whether you would be willing to press USDA to release compliance-related information, without a FOIA request and in a timely fashion, on its own web site; and
- Whether you have given additional consideration to making Ventria's compliance information publicly available by posting it directly on your website.

Again, we appreciate your willingness to look into these issues and look forward to hearing the outcome.

Turning to the substance of our questions about Ventria's compliance with permit requirements in 2005, as mentioned we recently received USDA's response to our January FOIA request. We were quite disappointed at what we found—and did not find—in the documents. In particular, we were astonished to discover that USDA's records contain no evidence of communication between the agency and Ventria after Hurricane Ophelia passed close by your company's site in September 2005. Given the real possibility that hurricane-force winds might have blown pharma rice seeds off the site, or that heavy rains and flooding might have washed plants and seeds away, we were surprised to learn that apparently neither USDA nor any Ventria representative picked up the phone after the hurricane to discuss the actual outcomes.

We were also dismayed to see that the inspection records document only three of five required inspections<sup>1</sup> of Ventria's pharma rice in 2005, and that USDA failed to inspect at the times that planting and harvest actually occurred. Moreover, we were disappointed by the amount of information that USDA allowed to be withheld as confidential business information.

Finally, it appears that Ventria did not live up to certain requirements detailed in USDA's supplemental permit conditions. Those conditions specify that Ventria is to submit six notifications/reports for each permitted plot. Given the timing of our FOIA request and the dates on which the reports are due to USDA, three reports per plot should have been among the documents we received: a pre-planting report due to USDA seven days in advance of planting, a planting report due 28 days after planting, and a termination report due 21 days before harvest. Our FOIA response contained only one report of the nine required: the seven-day pre-planting notification for 05-117-01, dated 6/16/05 from Ventria to Dr. Levis Handley.

In the interim since we filed our FOIA request in January, the due date for Ventria's field test data report, six months after harvest, has passed. According to USDA's records, the harvest occurred in October, so we assume that you submitted this report to the agency in April. Would you please send us a copy or, better yet, post this report on Ventria's website?

Based on the compliance documents we have seen thus far, we remain unconvinced that your company's production of pharma rice in North Carolina in 2005 was carried out and overseen in a manner that ensured the containment of pharma seeds and transgenes on the site. If you believe there are errors or omissions in the documents we received from USDA, please do let us and USDA know. We will be glad to send you by email the electronic files we received from the agency. Assuming they are accurate, we are forced

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<sup>1</sup> USDA APHIS BRS. 2006. Factsheet: Permitting genetically engineered plants that produce pharmaceutical compounds, p. 2. (Available on BRS web site at <http://www.aphis.usda.gov/publications/biotechnology/index.shtml>.)

to conclude that USDA has once again proven itself unable to enforce compliance in order to ensure virtually zero contamination of the U.S. food system from pharma crops such as Ventria's lactoferrin-producing rice, and that the only safe and effective solution is a nationwide ban on the outdoor production of pharma food crops.

In the meantime, we will continue to closely monitor Ventria's pharma crop activities, as well as those of other companies growing pharma food crops outdoors, and we hope you will continue to work to improve both the company's compliance with permit requirements and its openness to public scrutiny.

We hope to hear from you soon in answer to our specific requests.

Best regards,

Karen Perry Stillerman  
Senior Analyst, Food & Environment Program

Jane Rissler, Ph.D.  
Deputy Director and Senior Scientist, Food & Environment Program