

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 02 2009

CENTER FOR FOOD SAFETY; KAHEA,
(The Hawaiian Environmental Alliance);
FRIENDS OF THE EARTH, INC.;
PESTICIDE ACTION NETWORK
NORTH AMERICA,

Plaintiffs - Appellants,

BIOTECHNOLOGY INDUSTRY
ORGANIZATION,

Intervenor - Appellee,

v.

MIKE JOHANNNS, Secretary, U.S.
Department of Agriculture WILLIAM T.
HAWKS, Under Secretary of Agriculture
for Marketing and Regulatory Programs;
BOBBY R. ACORD, Deputy
Administrator, U.S. Department of
Agriculture, Animal and Plant Health
Inspection; CINDY SMITH, Deputy
Administrator U.S. Department of
Agriculture, Animal and Plant Inspection
Service, Biotechnology Regulatory
Services Program,

Defendants - Appellees.

No. 06-17319

D.C. No. CV-03-00621-JMS

MEMORANDUM*

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the District of Hawaii
J. Michael Seabright, District Judge, Presiding

Argued and Submitted November 19, 2008
Honolulu, Hawaii

Before: SCHROEDER, PAEZ and N.R. SMITH, Circuit Judges.

Plaintiffs-Appellants, the Center for Food Safety and other environmental groups, filed this action in order to compel the Department of Agriculture's Animal and Plant Health Inspection Service to comply with the provisions of environmental statutes, including the Endangered Species Act, the Plant Protection Act, and the National Environmental Policy Act. Specifically, they challenged the issuance of permits for field trials in Hawaii of certain genetically modified plants. The Biotechnology Industry Organization ("BIO") then intervened as a defendant. During the course of the litigation, BIO moved that certain information be kept under seal, and the district court granted the motion. The Plaintiffs-Appellants were ultimately successful in the litigation.

Before us is only the question of whether the district court abused its discretion in sealing the pinpoint locations of the field trials. The applicable standards for sealing documents are drawn from Kamakana v. City and County of Honolulu, 447 F.3d 1172 (9th Cir. 2006), and a compelling interest was required to

have been shown in this case because the documents were attached to a dispositive motion, id. at 1179. The district court concluded, on the basis of the affidavits and the other material before it, that sealing was justified due to the risk of vandalism to the fields and the possibility that trade secrets would be stolen. We review for abuse of discretion, id. at 1178, and conclude there was none.

AFFIRMED.