

WVSSA

Willamette Valley Specialty Seed Association

DATE: March 19, 2013

TO: House Agriculture and Natural Resources Committee:
Chair Brad Witt (D-Clatskanie)
Vice Chair Sal Esquivel (R-Medford)
Vice Chair Caddy McKeown (D-Coos Bay)
Rep. Brian Clem (D-Salem)
Rep. Wayne Krieger (R-Gold Beach)
Rep. Jeff Reardon (D-Happy Valley)
Rep. Jim Thompson (R-Dallas)
Rep. Ben Unger (D-Hillsboro)
Rep. Gail Whitsett (R-Klamath Falls)

RE: **Testimony in support of HB 2427**

FROM: Greg Loberg
Public Relations Chair, WVSSA
Manager, West Coast Beet Seed Company, Salem

The WVSSA has existed formally since 1980 and informally for decades prior to that. Our active membership consists of 36 seed companies who contract production in the Willamette Valley. We estimate our farm gate value for 2012 at nearly 50 million dollars. Membership in the Association is required in order to participate in a mutually beneficial mapping system to allow for flowering isolation of related seed crops. Although membership is voluntary, very little production is contracted outside of current members. We constantly invite new memberships in an on-going effort to engage all seed producers. We also have a membership category for those seed producers that are “seed savers”, that is, growers who produce seed without a third party contract.

As the Public Relations Chair of our seed association, I am here to describe our concerns about the significant changes to the Rapeseed (Canola) Control Areas recently made by the Oregon Department of Agriculture (ODA). Following legislative authorization in 1989, Rapeseed Production Districts were first implemented by the department in 1990 in order to manage a crop that was a potential menace to horticultural and agricultural crops. The threat to seed crops of related species includes, but is not limited to, cross-pollination, plant diseases, and plant pests. In 2005, the department further revised the Control Areas, with one of the outcomes being that rapeseed, or canola, could be grown in the Willamette Valley only by special permit.

The protection of numerous specialty seeds and related interests in food crops that would have been affected by canola was an insightful and productive decision by the ODA. Several countries in Europe did not manage canola with a view to the future and have lost or severely limited seed growing regions. Much of the displaced European production relocated to the Willamette Valley, resulting in several years of double digit percentage growth on top of the strong seed production base already present. Furthermore, the limits placed on rapeseed minimized the occurrence of weed contamination in grass seed and clover seed products. Shipments to other states and exports to other countries depend, in part, on freedom from noxious weed content, and Oregon has grown famous around the world for our reliable quality of seed.

On February 7, 2013, the Oregon Department of Agriculture adopted an administrative rule that allows some canola production in the Willamette Valley. In essence, a large rectangular boundary that excluded most canola was collapsed in numerous areas to allow oilseed production in areas formerly occupied by seed production. Maps identifying areas of conflict along the entire border are attached to this testimony.

The Willamette Valley Specialty Seed Association argues against this ODA decision and for a return to the restrictions of the last several years through HB 2427.

1. The ODA has proceeded to amend their own long-standing rule protecting specialty seed from canola, in spite of a lack of supporting evidence that would reverse the concerns expressed in 1990, and in rule reviews in 2005, 2009, and 2012.
 - a. Specifically, last November, Director Coba requested funds from the State Emergency Board for over \$446,000 to answer numerous technical questions. In summary, the proposed research needed to investigate the potential for cross-pollination to damage related seed crops, assess canola volunteer persistence, study off-field movement of canola seed in waterways, evaluate baseline “feral” Brassicas in the area, and conduct a science-based policy, with market and risk analysis for coexistence of specialty seeds and canola. The request was not filled.
2. Although the new rule places some conditions on canola production, the ODA has not defined enforcement of either the rules or their violations adequately.
3. The ODA has not demonstrated firm funding for personnel to implement, monitor, or enforce the rule. Instead, funding relies on a contract fee that shall be established on a cost recovery basis. We believe that recovering costs in effect funds stewardship of canola under the new rule after it is too late.
4. In 2009, the department maintained the restrictions put in place in 2005, among other reasons citing the appropriate use of the ODA’s control district authority relating to pests and diseases, and further citing the opportunity to grow canola in many other regions in Oregon. The department also recognized the unique

character of the Willamette Valley for specialty seed production and acknowledged the negative impacts that canola could have on fresh vegetable operations. We agree and would add that these same conclusions are still intact.

As Director Coba told the Senate Rural Communities and Economic Development Committee on February 14, 2013:

"We believe there is a level of canola where you do jeopardize specialty seed production, but we just don't know what that number is, and so that's why OSU refers to being very cautious in terms of what you allow with acreage, and so, certainly in the Willamette Valley, we're not interested in seeing hundreds of thousands of acres of canola being planted. I think there's no question in my mind that that would devastate the specialty seed industry."

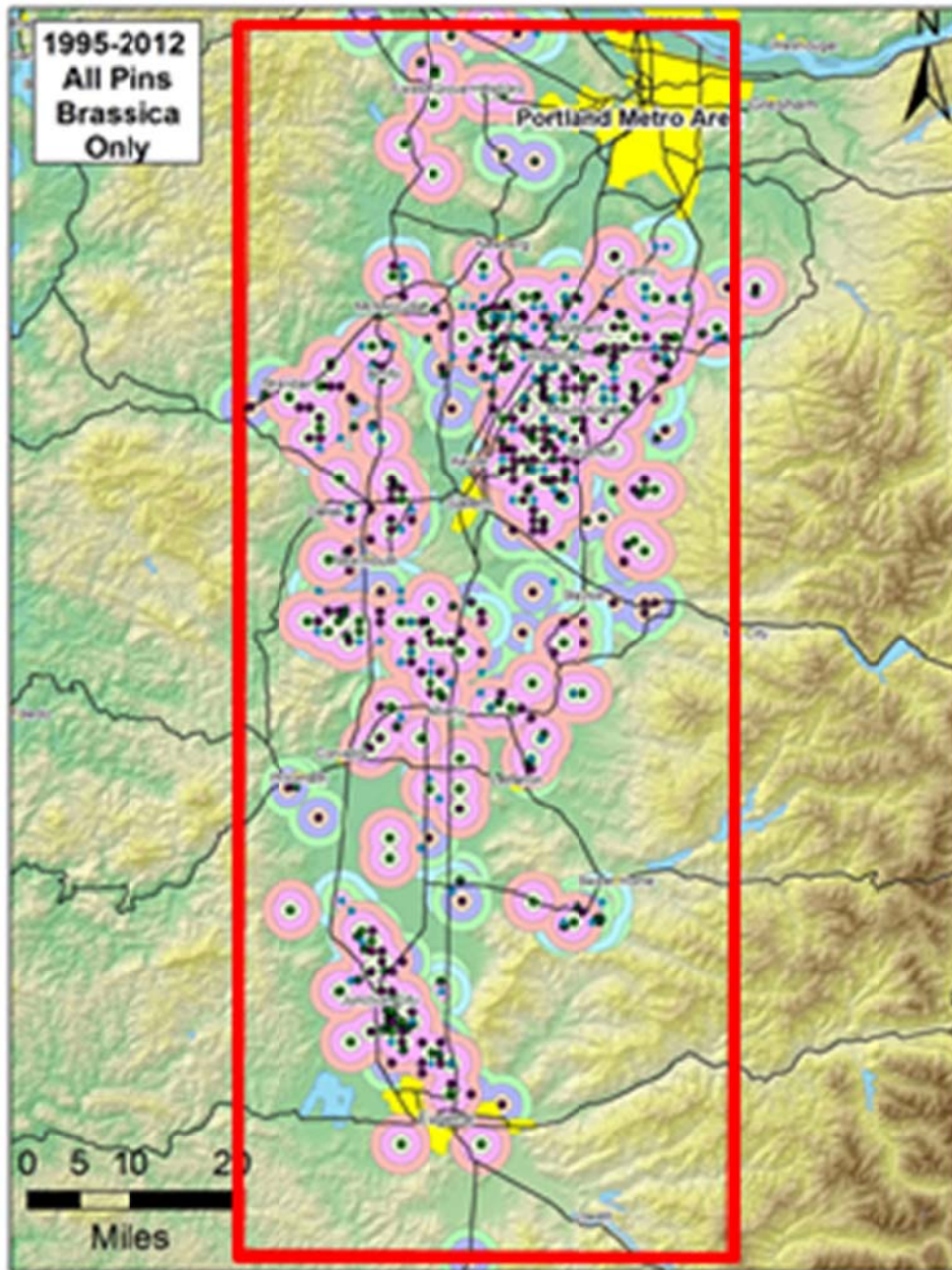
"...the specialty seed industry has really developed over the course of the last ten years; there's no question that this is a premier growing region for specialty seed production and we do have places, other places, in the world where specialty seed has lost its value or gone out of business, in some cases because of a large acreage amount of canola being produced, so we know this is a very, very sensitive and difficult issue, but the value of specialty seed has really grown over the last decade..."

The Capital Press reported on February 7, 2013, that "Coba said the department has no plans to revisit the rule, but could increase or decrease allowable acreage in the future depending on how the crop performs and whether it causes a problem for other crops."

Finally, while the Oregon Farm Bureau at the state level supports reducing restrictions on canola in the Willamette Valley, at least two major county chapters do not share that position. The Marion County and Clackamas County Farm Bureaus have voted to oppose any change to the ODA rule as it existed until February 7, 2013.

In conclusion, we believe that the rule was adopted without funding that would help determine the extent of problems that canola would cause in strong, existing industries. Likewise, funding is not firm for enforcement of the rule. The Willamette Valley in essence will be relying on a large scale experiment that could cause long term damage, some of it irreversible, in order to identify, describe, and react to problems. We strongly urge this Committee to support HB 2427.

The following map shows the historical pattern of *Brassica* crops contracted and “pinned” by the WVSSA. The points represent actual fields from 1995-2012, and the pink areas represent isolation distances that are required in order to protect genetic purity from neighboring seed crops. Clearly, the WVSSA essentially touches nearly all of the irrigated, “row crop” soils in the entire Willamette Valley.

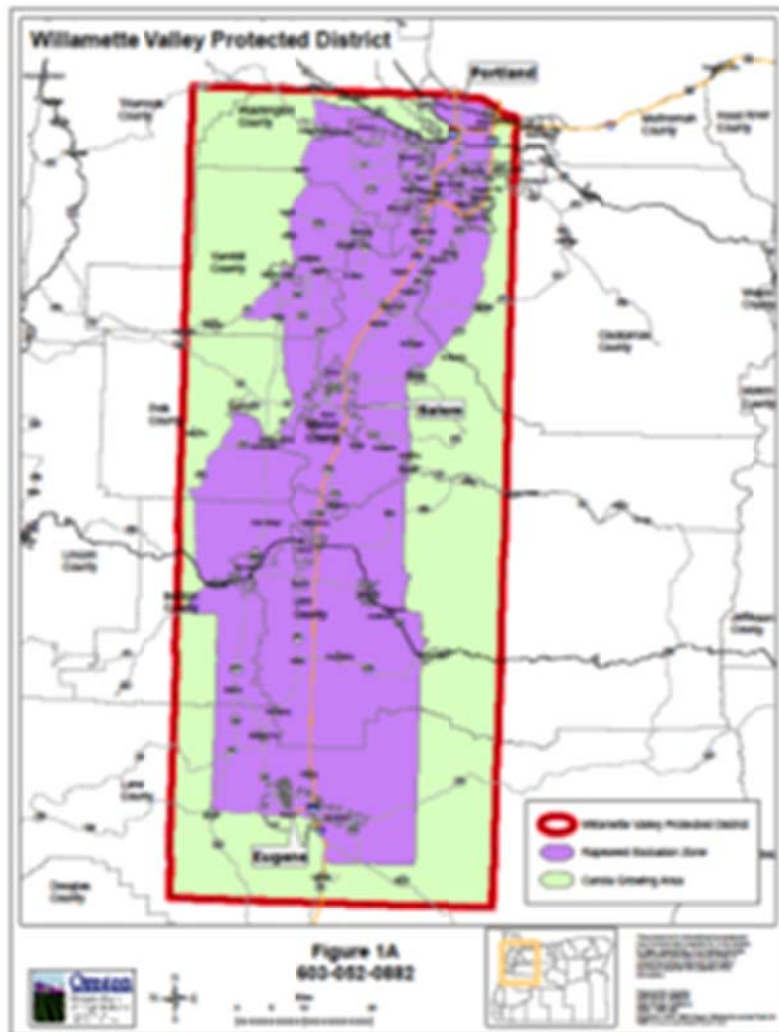


The following map illustrates the result of the new canola rule. The boundary that essentially excluded canola from 2005 through 2012 is depicted by the red rectangle. The new protected or control area has been reduced to the zone shown in purple. Canola may now be grown in the green zone. The outcome of this is that no species of related seed crops will be grown in the green zone and a significant production area has been lost. Worse yet is the proliferation of plant diseases, plant pests, and weedy canola volunteer plants.

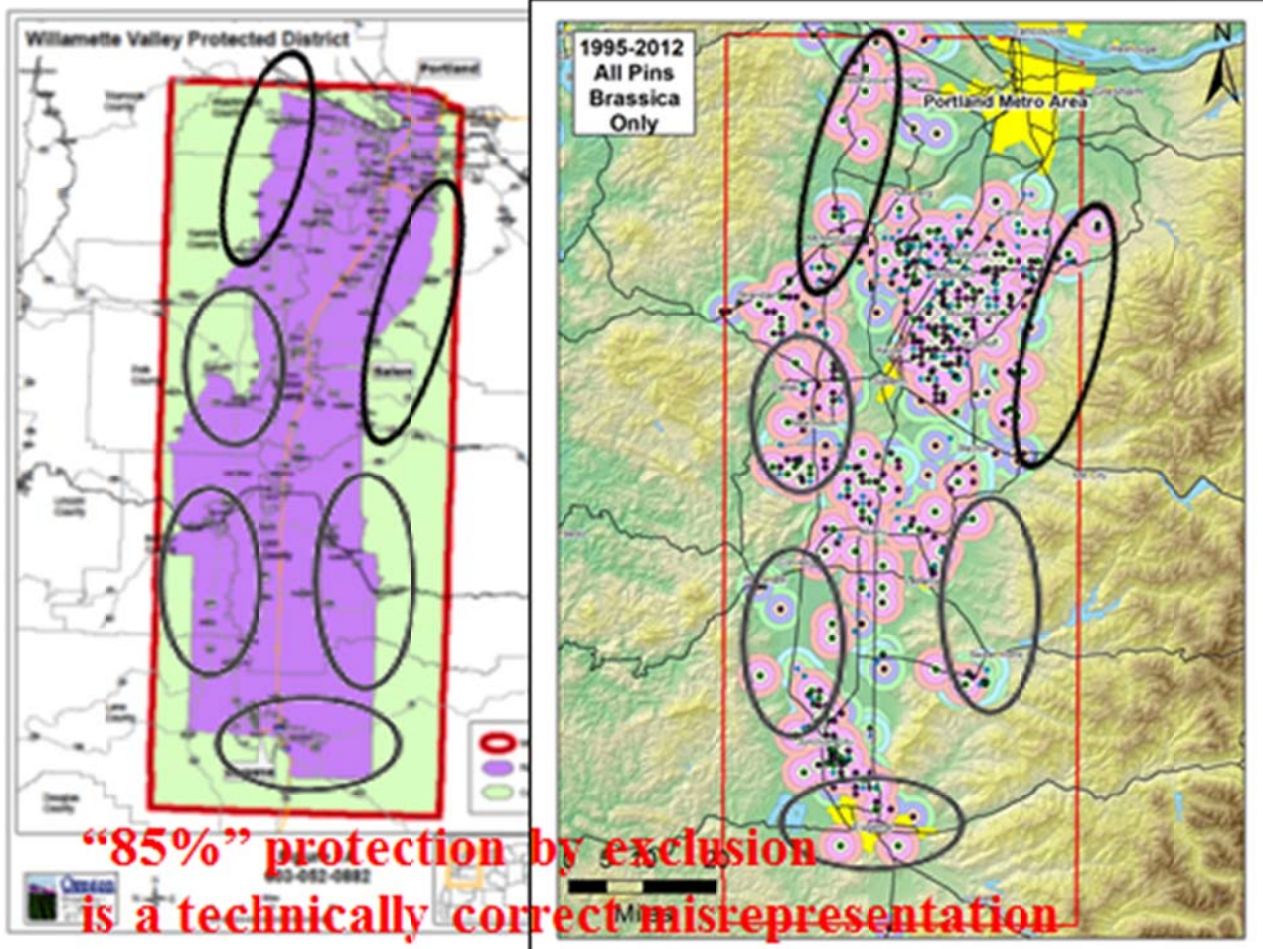
ODA canola map

Purple: exclusion

Green: allowed



Finally, in addition to losing production area and increasing seed risks, the entire perimeter of the protected area is compromised. Numerous areas of conflict are circled in the side by side maps below.





Oregon

John A. Kitzhaber, MD, Governor

Department of Agriculture

Office of the Director
635 Capitol Street NE
Salem, OR 97301-2532
(503) 986-4552
FAX: (503) 986-4750

November 5, 2012



The Honorable Peter Courtney, Co-Chair
The Honorable Bruce Hanna, Co-Chair
The Honorable Arnie Roblan, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request

The Oregon Department of Agriculture (ODA) requests funding through the State Emergency Board of \$446,040 to further research on co-existence between canola, other brassicas and Willamette Valley specialty seed crops. Canola is an oilseed crop in the mustard family Brassicaceae. This family includes food crops such as cabbage, cauliflower, broccoli, brussel sprouts, turnips, and radish. Some brassicas are used for forage and cover crops. Canola, an edible oil subgroup in a broader oilseed group commonly called rapeseed, is grown for human and livestock consumption as well as biodiesel production.

The focus of the research will be: 1) Assist in understanding cross-pollination potential among canola and specialty seed brassicas; 2) conduct volunteer and seed bank assessments in fields in the years following production of a canola crop; 3) examine off-field movement including waterways; 4) determine baseline populations for "feral" brassicas in the Valley; 4) conduct disease and insect assessments in canola and other brassica crops; and 5) conduct a science-based policy, market and risk analysis for co-existence between specialty seeds and canola.

Background:

Over the past sixty years, growers in the Willamette Valley and other areas of Oregon (Central Oregon, Northeast Oregon and Malheur County predominantly) developed a vegetable seed production industry that included some brassica crops. Because this family of crops can potentially share diseases and pests, and can cross-pollinate if not carefully managed, specialty seed growers and seed companies developed stringent protocols for production. Protocols included pinning (putting pins in a map to identify the location of fields for other growers), imposing isolation distances (ranging up to three miles between fields), and tightly managing control of diseases, insect pests, volunteer plants and wild brassicas.

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Meanwhile, Willamette Valley farmers had a need for rotational crops, especially broad-leaf, deep-rooted plants that could help break disease, pest and weed cycles in grass seed fields. Legislative restrictions on field burning and a declining demand for grass seed have led some grass seed growers to seek alternative crops. Growers have found that canola is a good alternative as it produces high yields with minimal inputs and can be grown with the same equipment used in grass seed production. Growing canola for oil is the intent of these growers. Unlike markets for other alternative crops (clovers, other legumes, flax, etc.) the market for canola is well established, is a cash market and is so large that Willamette Valley production would have little influence on it hence growers can easily move in and out of this market.

In the late 1990s and early 2000s, vegetable seed production flourished. Specialty seed growers feel that their management practices— which include using small plots highly managed for pests and weeds and pinning fields to notify other growers of locations, buffer distances, and rotations— have created an ideal specialty seed growing environment. This carefully managed environment offers assurance to their customers that they can rely on seed purity. Specialty seed growers feel this production environment would be threatened by the introduction of canola, arguing it would be grown on a larger scale without the same management intensity. Farmers interested in growing canola counter that they have no interest or intention in harming other growers and are open to a variety of management requirements for canola production.

The two sides could not come to agreement about co-existence and the Oregon Department of Agriculture (ODA) was asked to assist the parties in coming to some agreement. ODA started on this endeavor by seeking resources from the legislature to conduct research through Oregon State University to gain as much information as possible about co-existence issues surrounding these crops. The September 2006 Emergency Board allocated to ODA an amount of \$235,000 to begin research that would assist in: 1) understanding interactions between canola and other specialty seed and vegetable crops grown in Oregon; 2) development of potential management strategies for production of canola crops while protecting the specialty seed and vegetable crop industry and 3) the investigation of alternative oilseed crops that do not conflict with specialty seed and vegetable crop production. The research took place over a three-year period, and the information and reports can be found at: <http://cropandsoil.oregonstate.edu/bioenergy/overview>. The ODA indicated to the 2006 Emergency Board that it would seek additional resources during the development of its 2007 budget to continue the research. ODA did ask for continued funding in its 2007 agency budget request but funds were not made available for the continuation of the research beyond the original \$235,000.

While the research was being conducted, ODA took a precautionary approach and set up "control districts" based on possible concerns with pest and disease menace issues. ODA is authorized by statute to establish control districts under ORS 570. Within control districts, canola production was allowed only by permit from the ODA Director. Permits were issued for the purpose of conducting OSU research in cooperation with growers

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under field conditions on plots ranging from 5 to 20 acres. Areas outside control districts are available to grow canola for oil production.

Because control districts affect what farmers can grow, ODA uses considerable care to ensure that the imposition is according to laws that protect for unmanageable pests diseases, or other menaces. ODA does not have authority to regulate what farmers may choose to plant for purely "market" concerns.

Out of an abundance of caution, in 2005 ODA established a large control area that included all counties in the Willamette Valley. This was later revised (2009) as a large rectangular boundary that made it easier to define location. The large boundary was drawn in an area that could clearly be articulated to those inside and outside the control district. Three other control districts were established, including one in central Oregon covering the counties of Crook, Deschutes, and Jefferson; one in Northeast Oregon covering Baker, Union, and parts of Wallowa counties; and one covering part of Malheur County bordering Idaho. Production of canola for oil or seed in any of these areas requires a special permit. All brassica seed production requires "pinning" and isolation distances between fields.

Fast forward to 2012 and not much has changed regarding the complexity and controversial nature of this co-existence issue. The positions of those wanting to grow canola and that of vegetable, clover, and organic growers have remained entrenched. ODA has brought the parties together several times to attempt to reach agreement without success.

The ODA has proposed a new version of the control district rule, has had a hearing and accepted written comments and as of the date of this letter is working on modifications to the proposed rule based on the comments received and input from a rules advisory committee established after the first hearing date of September 28, 2012.

Action Requested

The ODA rules advisory committee established after the September 28th hearing indicated an interest in having ODA seek resources that would allow Oregon State University to conduct research that would be complimentary to any control district rule that was established. The research that was conducted as a result of the 2006 Emergency Board allocation answered some questions but created others and left the state with no easy answers. The research did conclude that crops in the brassica family must be isolated from each other and growers need to communicate where they are planted to each other. Pest and disease could be a concern if large acreages are grown. In addition, the creation of an electronic pinning system has advanced the sophistication for co-existence of crops.

The ODA respectfully requests the Emergency Board provide ODA with \$446,040 in emergency funds to begin work at Oregon State University. If funded, the objectives and

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outcomes of the research would be similar to the previous research work with some additions. The potential concerns that can be addressed include:

- 1) Is cross-pollination among current-season brassica fields a significant concern given that isolation of fields is a likely requirement of canola production in the Willamette Valley? Or is cross-pollination with volunteer and "feral" plants the greater concern?
- 2) Assessments in canola fields following the year of canola production would add to our information base and allow us to better determine if volunteer plants and seed bank populations are a real problem or if they can be managed through rotation to a grass or grain crop in which standard herbicide practices are used.
- 3) An assessment of potential off-field movement. Field edges will be assessed for volunteer plants through visual evaluation. In addition, waterways adjacent to canola cropped fields will be visually assessed to determine if seed has been moved off fields during rain/flooding events.
- 4) Baseline assessments will be made along roadsides to determine current brassica populations and follow-on assessments will be made near canola production fields to determine if seed scatter has occurred during crop transport.
- 5) Disease and insect assessments will be made in canola fields and compared to specialty seed brassica fields. Visual inspection, counts and pest identification are the expected outcomes.
- 6) The potential exists for the Agricultural and Resource Economics (AREC) Department at Oregon State University to conduct an economic assessment of the potential impact of canola production in the Willamette Valley. This project would be a science based policy analysis that would objectively review the impacts to existing specialty seed and clover production while estimating the value of canola production. Specific information on our competitive advantage versus other specialty seed growing areas in the world would be sought.

Time is of the essence to establish baseline data and monitoring in the Willamette Valley. It is anticipated that three years of research is required to produce outcomes that can further address many of the unanswered questions regarding co-existence of brassica crops in the Valley. The ODA requests the full three years of funding to ensure that the research once started can meet the stated outcomes.

Legislation Affected

Oregon Law 2011 Chapter 409, Section 1, Subsection (3)

Sincerely,



Katy Cobb
Director

**House Interim Committee on Agriculture,
Natural Resources and Rural Communities
January 14, 2010**

Katy Coba, Director
503-986-4552

Summary of Oregon's Regulations for Growing Canola

Background:

In 1989, the legislature authorized ODA to "establish control areas for the production of rapeseed" (ORS 570.450). ODA adopted administrative rules in 1990 dividing the state into twelve rapeseed production districts. These districts were designed to separate and prevent cross-pollination between edible-type (canola) and industrial oil-type rapeseed, and to protect seed crops of related species from cross-pollination with canola grown for seed. The advent of biofuel derived from canola made the old rule obsolete. In 2005, the rule was updated to allow canola/rape to be grown for biofuel while still protecting specialty seed and vegetable crops. The 2005 rule did away with the 12 districts, instead dividing the State into a general production area where canola oil crops were allowed, and four protected districts where they were prohibited except by special permit.

For the past several years, funding from the Oregon legislature has allowed OSU to conduct research on the economics of canola production, canola's potential to become a weed, cross-pollination with related crops, and pest & disease pressure. In January 2009, ODA pulled together a committee to review the canola regulations in light of the new research.

The committee worked hard for five months exploring all possible win-win solutions. Many options were proposed and discussed. Unfortunately, the committee didn't reach a consensus; differences of opinion remain on whether canola can co-exist with other crops in the Willamette Valley. The committee put two competing recommendations forward: 1.) Maintain prohibition on commercial production, or 2.) Allow 1,000 acres of commercial canola production. Many issues were considered when making a final decision, including:

- The appropriate use of the Oregon Department of Agriculture's control district authority as it relates to pests and diseases.
- The unique character of the Willamette Valley for specialty seed production.
- The number of fresh vegetable operations, including smaller farm operations whose markets include local buyers, all of which could be negatively impacted by canola pests and diseases.
- The opportunity to grow canola in many other regions in Oregon.

ODA settled on an option designed to protect existing specialty seed and vegetable production while allowing canola in as much of the state as possible. Amended regulations were adopted last September. The amendments preserved the basic division of the State into a General Production Area and four Protected Districts. Changes included:

- Boundaries of the Willamette Valley Protected District were collapsed from county lines to a rectangle covering the historical specialty seed/vegetable production area.
- Special permits limited to research.
- Production of canola seed stock restricted in protected districts.
- Rule review scheduled again in 2012.

After the fall 2009 amendment, growers of seed for related forage species raised questions about the definition of canola. OSU helped draft a new definition; it was added to the rule this week.

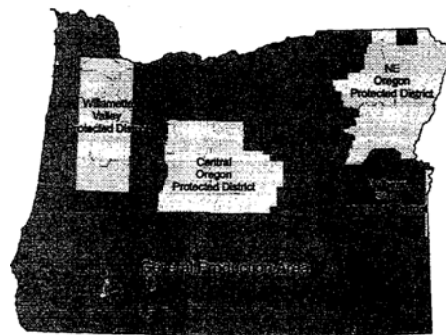


Fig. 1. Current general canola production area and protected districts.

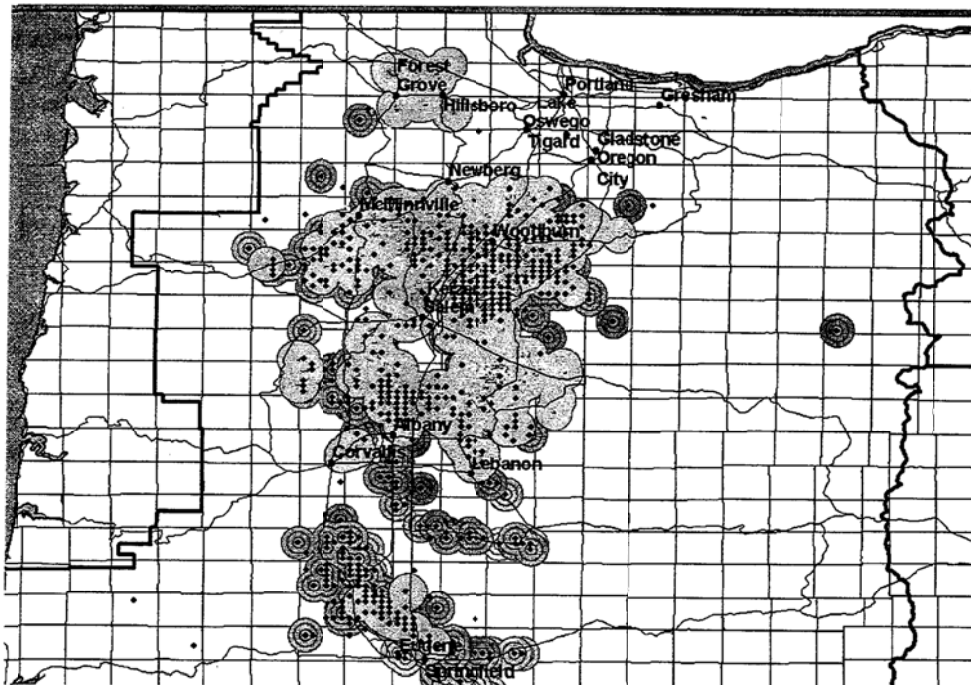


Fig. 2. Specialty seed fields and buffers in Willamette Valley;
5-year overlay with 2005 protected district boundaries.

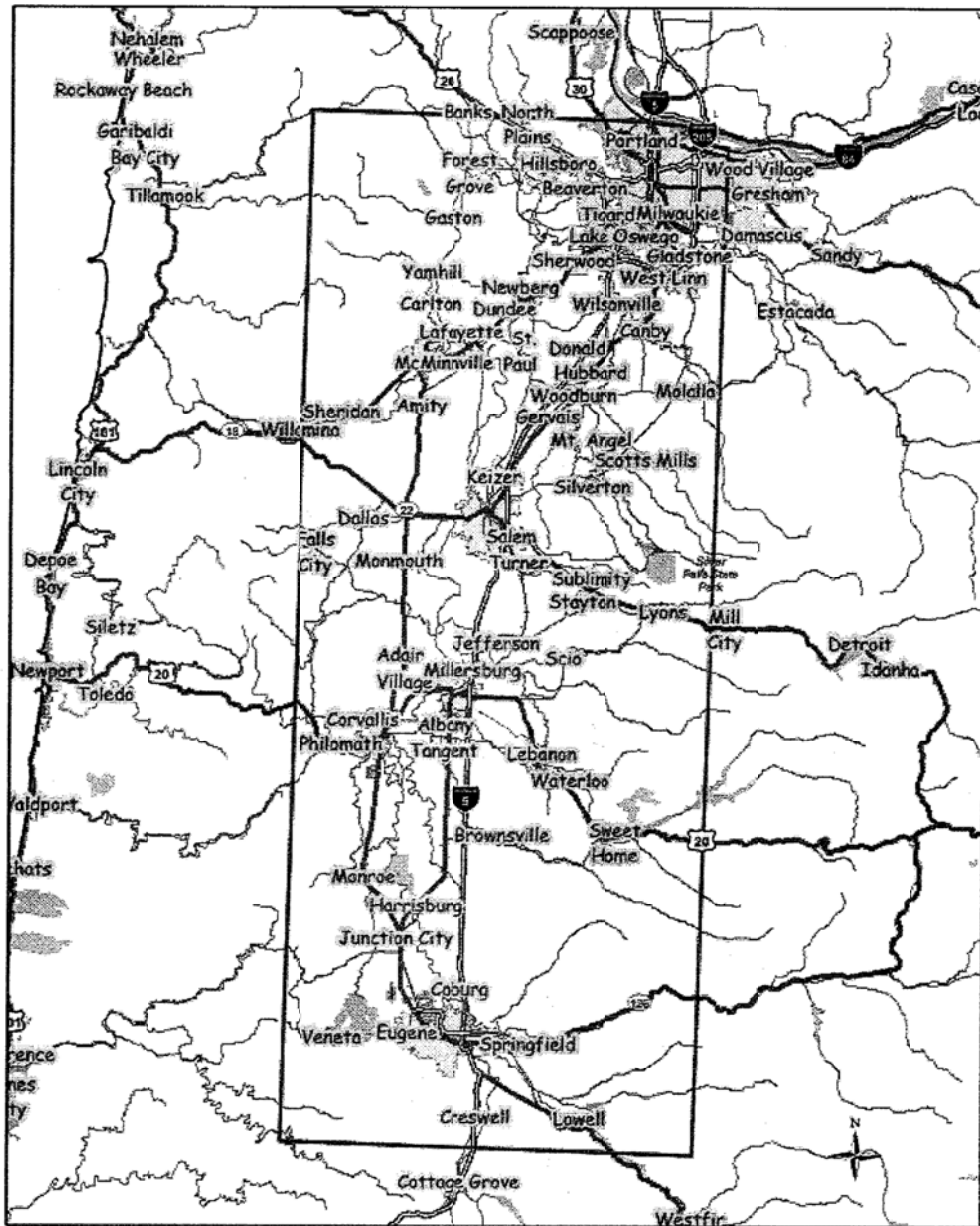


Fig 4. New 2009 Willamette Valley protected district boundaries.

CLACKAMAS COUNTY FARM BUREAU

33814 S. Meridian Road
Woodburn, OR 97071

March 19, 2013

Agriculture and Natural Resources Committee
Members of the Oregon House of Representatives

Re: HB 2427 Prohibits raising canola within Willamette Valley.

Purpose:

Clackamas County Farm Bureau would like to formalize its position regarding HB 2427 regarding the raising of Canola in the Willamette Valley.

Position:

Clackamas County Farm Bureau supports the passage of HB 2427 prohibiting the raising of Canola in the Willamette Valley.

The Board of Directors of the Clackamas County Farm Bureau has voted for no change to the last Oregon Department of Agriculture (ODA) administrative rule limiting canola (see sections 603-052-0850 through 603-052-0880). That rule protected the seed industry and was founded in well-rounded and inclusive discussions over the years. The ODA has adopted a destructive rule change without offering new evidence that would support the reversal of past decisions that were based on a scientific determination. seeds in a field.

Clackamas County Farm Bureau



President: Jon Iverson