



# Wild Garden Seed

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Testimony regarding HB 2674 and 2675, an attempt to create conditions for Coexistence between users of genetic engineering technology, and those who do not wish to be contaminated by gene flow from that patented technology.

Frank Morton, owner/founder/breeder at Wild Garden Seed, Shoulder to Shoulder Farm, Philomath, OR 97370. March 5, 2015.

I have been a commercial organic seed grower for over 20 years. I am a member in good standing with the Willamette Valley Specialty Seed Association, and have served on its Pinning Rules Committee. I was a member of the Oregon Governor's Task Force on Genetic Engineering throughout 2014, which was a major commitment of time for an active and engaged farmer. I was a lead plaintiff in a lawsuit against the USDA regarding the deregulation of Roundup Ready sugarbeet, on the basis that that agency did not consider the impacts of RR sugarbeet seed production in the Willamette Valley when it deregulated the crop. That lawsuit was successful in forcing the agency to do an Environmental Impact Study that took seed production in Oregon into account—the first time an EIS has ever been required to account for gene flow from any GE crop.

I was asked to come to Salem today to testify before the committee considering these “Coexistence Bills.” I concluded that one more day of my life will not fix these bills being considered, and I will not waste another of my days beating my head against this stonewalling effort.

The notion that this convoluted, contentious, overpriced “market districting” scheme will create a peaceful coexistence between users and non-users of this patent-bearing technology creates another fool's errand that I am not foolish enough to chase after.

Consider these impediments to peaceful coexistence:

If non-users of GE wish to create a “marketing district,” they must find 5 willing partners from the GE user community willing to engage in the time, expense, and regulatory oversight of the ODA. Why would 5 GE users wish to do that? I can't think of any

advantage in doing so. By saying, “No thank you” the GE users avoid all the entanglements of this proposal. No change in the existing status quo is the outcome.

Fees associated with applying to ODA to create a district is another impediment, especially since willing partners on the other side are unlikely to be found, even after the fees are paid.

The proposed pinning system is not appropriate to this situation. Pinning works for the WVSSA because of the mutual economic interests of the participants. The principle at work is this—“If you are contaminating my seed crop, then I am contaminating your seed crop, and we both lose.” The impact flows both directions, like the wind. This is not the case in GE vs Non-GE cropping situations. There is no damage to a GE silage corn grower from organic sweet corn pollen, but the organic sweet corn grower cannot really maintain that the sweet corn crop is organic if the kernels have been pollinated by genetically engineered Bt pollen. This results in sweet corn where the endosperm is 50% Bt-bearing cells. In the case of GE canola and Non-GE kale seed, the kale pollen has no effect on the canola oilseed crop—all of its seeds are crushed for oil. But the large acreage of the canola field will completely swamp the smaller seedcrop field and destroy utterly its value in the marketplace as seed for planting. A GE alfalfa grower has nothing to fear from non-GE alfalfa-growing neighbors, but the Non-GE alfalfa grower that is cross-pollinated by his GE-using neighbor will find his exported hay rejected by our Pacific Rim trading partners when they test the crop. This is not theoretical, it has already happened to a conventional alfalfa grower in Washington. He can’t sell his crop as he intended, to Japan. Pinning only works where good will is backed by mutual economic interest.

The costs associated with this Bill are being foisted off on people (neighbors, other producers, taxpayers) who derive no benefits or profit from the patents and seed sales associated with GE technology. Biotech seed is famously profitable for the companies that produce and sell it, and those who use it. Why then, are those suffering the downside of the technology expected to pay for protecting themselves from its “pollution effects?” Whatever happened to the “polluter pays” principle, an obviously fair principle? The notion has also been floated that organic producers should self-insure against the hazard of GE contamination. Again, this is obviously an unfair proposal, since the hazard happens to be a profit-making patent protected product, the owner of which is easily identifiable.

If the State of Oregon wants a fair route to Coexistence for all, without resorting to the regulatory expense and community quagmire proposed by the “market district” amendment, I suggest the State require a pollen management strategy for any GE crops grown in the state. In the case of sugarbeet seed production, this would be as simple as a requirement that the GE traits be embodied in the pollen-less female lines that are used to create commercial hybrid seed. This is already done by one of the two sugarbeet seed companies operating in the Willamette Valley. The other company still has the Roundup Ready trait in the male, pollen-producing side of the hybrid parentage, meaning that these are a source of seed contamination for conventional beet and chard seed producers.

In general, hybrid GE seed crops could be produced using cytoplasmic male sterility (CMS) to preclude GE-trait dispersal via pollen. This is not difficult, but it has never been required of GE seed companies. Oregon could set an important precedent for the principle of coexistence by requiring “pollen containment” management practices such as this. The underlying principle of rural peace is embodied by the concept of good fencing making good neighbors—or to put it in the Texan vernacular, “Good neighbors know that a fence should be Bull Strong, Horse High, and Pig Tight.”

That is how coexistence has always worked. No good coexistence model puts up with bulls or pigs ruining a neighbor’s property. GE crops can be contained at the source by using any number of genetic locks and keys involving CMS, genetic incompatibility factors, and other GURTs (genetic use restriction technologies) that have been developed to prevent “unauthorized use” of GE traits by those who have not paid to use them. This technology exists, it was created to do exactly what is needed to foster coexistence...but it has never been used for this purpose. The State of Oregon should require it. That would be a real Oregon Solution to this nationwide problem.

Thank you for considering my comments. These and many other important concepts can be found in the report from the GE Task Force.

Frank Morton