



May 8, 2019

## Testimony on HB 2882, -2 amendment House Committee on Rules

Chair Holvey, members of the Committee:

Friends of Family Farmers represents small and mid-sized farmers across Oregon. We work with a wide range of producers, including organic, conventional, and some who grow genetically engineered crops. We served on the state's Task Force on Genetically Engineered (GE) Seeds and Agricultural Products in 2014 in hopes of finding solutions to long-standing problems with lax oversight of GE crops at the state and federal levels. Prominent examples of this lax oversight include the costly and well-publicized genetically engineered wheat contamination incident that impacted Oregon wheat farmers in 2013, escaped genetically engineered bentgrass in eastern and central Oregon that is still not cleaned up, and the more recent rise of herbicide tolerant weeds related to increased used of herbicide tolerant genetically engineered crops.

We support the underlying concept in HB 2882 to allow farmers who discover unwanted presence of genetically engineered (GE) material on their land to seek compensation from the patent-holders of those GE traits when economic harm has been caused. Despite significant economic risk to many Oregon farmers from poorly regulated GE crops, the state still has no system in place to prevent economic losses when contamination from GE traits occurs. While we believe in the need for better state and local regulation to protect farmers whose crops are at risk of contamination, we also believe the Legislature should strengthen the ability of farmers to hold GE crop patent-holders financially accountable when economic losses have been sustained due to unwanted presence of GE material.

While we support patent-holder liability for GE crop contamination incidents, we also support action from the Legislature to provide clear direction to the Oregon Department of Agriculture to establish rules to prevent GE contamination as the -2 amendment to HB 2882 does. We support the -2 amendment to HB 2882, but have two suggested amendments:

- a) the 'may' on page 2, line 3 of the -2 amendment should be a 'shall' . This would not only require the ODA to establish rules and recommendations, but would require that those rules and recommendations be followed.
- b) Subsection (3) of the -2 amendment should be removed. As written, this section could have the consequence of actually protecting the manufacturers and patent-holders of GE crops and exclusively exposing growers to liability when contamination incidents occur.

### **Background**

In the special session of 2013, the Legislature passed SB 863. This controversial bill placed genetically engineered seeds and 'products of seed' under the 'exclusive regulatory power' of the state. At the time, we opposed this bill because we believed that the Oregon Department of Agriculture (ODA) was not likely to act to protect farmers who had concerns about GE crops and potential contamination issues.

Unfortunately, our predictions came true. In the more than five years since SB 863 passed, ODA has not yet put in place any protections for farmers from risks associated with GE crops despite the clear legislative intent in SB 863 for them to do so. The ODA has instead argued that existing regulatory

authorities do not allow the agency to make science-based decisions to address problematic GE traits present in pollen and seed that can easily cross property lines. This stance from ODA leaves many organic and non-GE conventional farmers at risk of seed supply contamination, market losses, and even legal liability related to potential 'patent infringement.' Our current approach favors multi-national biotechnology companies that develop and patent GE traits, not Oregon farmers.

One point of information from the Oregon GE Task Force (report available at <https://www.oregon.gov/ODA/shared/Documents/Publications/Administration/GETaskForceReport.pdf>) is that Oregon is not a major GE crop growing state. While some GE crops are grown here, most farmers are not growing them, and we instead have both high value organic and conventional farming sectors that face significant market risk and legal liability from poorly regulated GE crops. These sectors include: specialty vegetable seed (both organic and conventional), cover crop and grass seed, hay and forage, and more.

HB 2882-2 is a needed step to ensure the Oregon Department of Agriculture enacts rules to protect farmers from GE contamination risks.

Thank you for the opportunity to testify today. We urge you to pass HB 2882 with the -2 amendment and the changes we have suggested and send it to the House floor with a 'do pass' recommendation.

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