

Seed Advisory Board Meeting  
 CDFA Plant Diagnostics Center  
 3294 Meadowview Road  
 Sacramento, CA  
 8:15 AM, Thursday November 4, 2010

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**1. Call to Order – Roll call**

Chairman Hansen called the meeting to order at 8:20 am. The following members and guests were present:

Kelly Keithly	Dennis Choate	John Heaton
Rick Falconer	Larry Hirahara	Sue DiTomaso
Gabe Patin	Chris Zanobini	Jamie Shattuck
Ken Scarlett	Betsy Peterson	Tim Tidwell
John McShane	Umesh Kodira	Allen Van Deynze
Marc Meyer	Connie Weiner	Robert Price
George Hansen	Deborah Meyer	

**2. Acceptance of minutes from May 12, 2010 meeting**

John Heaton noted two corrections to names in the minutes.

Ken Scarlett motioned that the corrected minutes be accepted.  
John McShane seconded the motion. Motion carried.

**3. Nominating Committee Report**

Chairman Hansen agreed to a request by member Kelly Keithly to move the Nominating Committee Report to an earlier point in the agenda.

Marc Meyer reminded the Board that the following members have terms set to expire March 31, 2011.

John McShane  
Rick Falconer

Dennis Choate  
George Hansen

In addition, there is a vacant seat for a public member.

Meyer informed the Board that Mike Campbell, who recently announced his retirement from UCD, has expressed a desire to serve as a public member on the Board. In addition, all of the members with terms expiring have also expressed a desire to continue serving on the Board.

Kelly Keithly motioned that the Board recommend reappointment of members with expiring terms and the new appointment of Mike Campbell to the public member position. All terms would be for the period April 1, 2011 to March 31, 2014.

Marc Meyer seconded the motion. Motion carried.

**4. Seed Services News – Items of Interest**

Heaton provided each Board member with copies of new articles that reported on the following important issues.

- A Declaration from the 2<sup>nd</sup> World Seed Conference identified the following needs for world food security in the future.
  - ◆ Increased public and private investment in the seed sector
  - ◆ Plant breeding will be a major contributor to food security
  - ◆ Facilitated access to Genetic Resources is needed
  - ◆ Intellectual property protection is crucial
  - ◆ Internationally acceptable methods of seed testing are essential
- An article about a company being fined \$2.5 million for mislabeling biotech seed.
- An article stating that the court's ban on biotech sugar beets has triggered a shortage of conventional seeds in a market where sugar prices are already increasing.
- A report stating that high levels of plant pathogens on seed do not appear to cause high incidence of the disease on resultant plants – specifically canker on carrots.

Heaton commented that the Board's generous funding of the UCD SBC is an example of the California Seed Industry's commitment to the above goals.

## 5. Seed Services Finances

### Update on the Bond Debt

Heaton informed the Board that in early October he approached the Financial Services Unit of CDFA with the Board's offer to pay-off the bond debt now. As anticipated, the early payoff may be more complicated than a simple transfer of funds between accounts.

The Financial Services Unit contacted the Department of General Services (DGS) which informed them that the Public Works Board or State Treasurer's Office may need to amend the facility lease and provide CDFA with a new repayment schedule. The Financial Services Unit is also checking with the CDFA Budgets Office to determine what authority may be needed to make changes to the facility lease and repayment schedule.

The following schedule of remaining estimated payments was provided to the Seed Services Program by the Financial Services Unit.

11/15/10 = \$2,295.00	11/15/12 = \$810.00
5/15/11 = \$27,295.00	5/15/13 = \$30,810.00
11/15/11 = \$1,620.00	
5/15/12 = \$31,620.00	Total Balance = \$94,450

### Report of Collections and Reported Seed Sales

Heaton provided the Board with an analysis of collections and reported sales Attachment 1). Important observations were:

- The reported value of seed sales for FY2009 was approximately \$50 million less than the sales reported in FY2008.
  - ◆ Some of the drop in sales was attributed to:
    - over-reporting of international sales in FY2008
    - a drop in grass seed sales
    - A reduction in sales of higher value biotech seed

Heaton added that the reported sales by some seed companies have triggered the need for audits to determine the validity of their reported sales drops. He plans to send out audit request letters during the winter months.

Although collections from reported sales were lower than originally projected, Heaton noted that the collection of \$1.4 million dollars is still in excess of the \$1.2 million of expenditures reported for FY2009. He expressed optimism that the new assessment rate will be adequate if reported sales rebound upward.

### Status of Refunds and Regulation Changes

- The Seed Services Program completed an audit of a large seed company that requested a refund due to their mistake of reporting all of their seed sales

instead of just their California seed sales. The audit results and their request for a refund were reviewed by the State Controller's Office and a check was sent to the company.

- The amendment to the California Code of Regulations section 3855 has been processed and will go into effect on November 10, 2010. This change effectively removes alkali mallow and poverty weed from the list of restricted weeds in the California Seed Law.
- The process to set the assessment rate at twenty-eight cents per one-hundred dollars of seed sales was initiated after the last Board meeting. Heaton expects the twenty-eight cent assessment rate to be in regulation around December 20, 2010.
- Upon successful implementation of the twenty-eight cent assessment rate, Heaton will initiate the motion previously approved by the Board to amend the regulations so that corrections to reported sales can only go back two years.

## 6. Recent Developments in the Seed Laboratory

### Seed Laboratory staffing – retirements and new hires

Deborah Meyer thanked the Board for their attempts to get approval of two trips to the AOSA/SCT annual meeting. She reported that Dr. Riad Baalbaki was able to attend but her request for travel was not approved. This created much frustration and hardship for the organizations as well as Deborah.

Dr. Baalbaki served as an instructor at the statistics workshop and successfully completed the exam for certified seed analyst in viability testing. He chaired the germination research committee meeting and attended various other meetings. Unfortunately, due to schedule conflicts, Dr. Baalbaki was not able to attend the AOSA Business meeting. Consequently California did not have an official member present at that meeting to vote on rules and AOSA business items.

Deborah emphasized how important it is for CDFA staff to attend this annual meeting. In recent years, the employees of the CDFA Seed Laboratory have been involved with numerous publications on seed testing, including:

- development and revision of standardized seed testing procedures used in North America
- development of the AOSA Seed Moisture Handbook
- revision of the AOSA Seed Vigor Handbook
- revision of the AOSA Seedling Evaluation Handbook
- review and editing of articles for the scientific journal Seed Technology
- development of a supplemental handbook for AOSA Rules on Purity Testing

The lab has also been working cooperatively with USDA to assist in the production of an interactive key to identify weed seeds found as contaminants in table grapes for export. The CDFA staff is providing verified seed specimens from the lab's extensive collection. In addition, staff will provide a critical review of the scientific data presented in the key.

In September, the lab hosted a two and one-half day workshop on various seed testing procedures. The workshop was well attended with people coming from as far away as Idaho to attend.

The lab recently updated their publication of the list of California's Noxious Weeds. This is referred to as the CCR 4500 list. The publication is frequently used by seed analysts but also by border inspection officers that find suspect weed seeds on various shipments coming into California. It is critical that the weeds on the 4500 list be accurately identified in order to avoid unnecessary expense to shippers as well as to government quarantine enforcement programs.

In conclusion, Deborah Meyer announced the retirement of Jim Effenberger on October 29, 2010. Jim worked in the CDFA Seed Lab for twenty-eight years and prior to that, he worked ten years for the now closed Federal seed lab in Sacramento. His thirty-eight years of experience will be greatly missed at CDFA.

During October, the Department administered an exam for the Associate Seed Botanist position. A list of candidates was developed and there is hope that CDFA can get an exemption to the hiring freeze in order to hire a replacement for Jim.

Marc Meyer inquired about the turn-around time in the lab. He noted that in previous years there was some concern about that.

Deborah Meyer replied that there are presently no delays in the lab. They have processed all of the samples they have been sent.

Heaton stated that the lab has completed their analysis and testing of all compliance monitoring samples. He acknowledged that he currently has a backlog of results from the lab that he needs to process. He explained that four weeks of out of state travel since mid July, three of which were for a review of the National Seed Health System, has put him behind.

Several Board members expressed their extreme displeasure that industry funds approved by the Board were not made available to Deborah Meyer to attend the AOSA/SCT meeting.

John McShane asked if it was possible to get a waiver from the hiring freeze.

Umesh Kodira explained that the process is lengthy and requires thorough justification. He is mindful of the requirement to fill the position within the six month time limit.

George Hansen noted that the lab has been asked to do more with less for several years. Now it seems that staff are even having to pay their own way to attend important meetings; noting Deborah Meyer's use of personal time to go to the AOSA meetings. He asked if every possible effort was made to get approval or reimbursement for her.

Heaton assured the Board that every possible means was exhausted to get approval for Deborah Meyer to attend the AOSA meetings. Since no reimbursement is possible without concurrent submission of a signed form indicating approval to

travel, there was no mechanism to reimburse Deborah Meyer. He added that he also had a tremendously difficult time getting approval for trips that were being paid entirely by the National Plant Board. He suggested that part of the problem is that travel by state employees during periods of budget crisis does not present a favorable perception for the public; at least that is what he has been told.

George Hansen asked if private industry could fund trips by the lab staff.

Heaton did not believe that was possible due to rules about conflict of interest.

Deborah Meyer added that even if AOSA were to pay for her attendance at their meeting she would still have to write numerous justifications. She recalled that even during years without such serious budget concerns, it was still very difficult to get authorization for more than one person to attend. There is no doubt that the activities at these meetings, however, require more than one person to attend.

## **7. Report on Seed Services Activities**

### **Summary of statewide seed sampling for 2009-10**

Heaton provided a handout with a summary table that presented the number of samples collected by each of the four districts assigned to CDFA biologists (Attachment 2). He noted that 534 samples were collected and 84% have been analyzed. So far only 30 samples have failed compliance testing. Most of the failures were due to mislabeling of seed purity and inert material. The labelers of the seed samples which failed have been notified with enforcement letters.

It was noted that the number of samples submitted was lower than the target of 600. Heaton explained that since employees were required to take three furlough days each month, all of their work assignments got compressed. Most of the seed samplers have additional responsibilities in Nursery and Certification Services which requires them to inspect plants at very specific stages of growth.

In addition, the CDFA Biologists spent a considerable amount of their time conducting investigations of seed complaints (see below).

### **Breakdown of Sampling by CDFA Sacramento District Biologists**

Four pie charts depicting the kinds of seed sampled by the Sacramento District were presented as an example of the variety of seeds sampled (Attachment 3). The CDFA seed lab is somewhat unique to other state seed labs because they test such a wide variety of seed kinds.

### **Seed Complaint Activities**

A brief summary of four different seed complaints was provided.

Heaton noted that two Board members served on the Investigative Committee for a hybrid pepper complaint that was resolved during an Investigative Committee meeting in February.

Another complaint involving organic heirloom tomatoes is in progress. It has required an extensive investigation of seed labels, the dealers' invoices, transplant greenhouse records, supplier invoices, production records and a growout.

A complaint involving conventional corn seed allegedly represented as Roundup Ready Corn was resolved with the assistance of a County Deputy Commissioner and the seed dealer involved.

A fourth seed complaint involved three sugar beet growers in the Imperial Valley and an out-of-state labeler. CDFA conducted a very thorough investigation of the circumstances surrounding those complaints. Biologists performed multiple stand counts and sent numerous seed samples to the state seed lab. The seed lab performed several tests, including germinations of multiple varieties over a range of temperatures. Our investigation revealed that the seed lot in question did have a problem with germination. Two of the growers eventually reached an agreement with the labeler however one grower is still negotiating. It may be necessary to assemble another Investigative Committee to meet with the grower and labeler, or it may be possible that the disputing parties just request mediation.

#### **Trifold about Brown Bagging Sent With Renewal Licenses**

Each Board member received a complimentary copy of an informational trifold (Attachment 4) discussing the illegality of brown bagging seed that is protected by the Plant Variety Protection Act. The Seed Services Program included one copy of this trifold with each notification of renewal for authorization to sell seed in California.

#### **Out-of-State Travel Activities**

Heaton reported that he is serving as a representative for the Western National Plant Board (NPB) to conduct a review with USDA of the National Seed Health System. This assignment has involved numerous trips to other states but each trip has been paid for by the National Plant Board. During the months of August and September, Heaton traveled to Des Moines, Iowa, Boise, Idaho and Brookings, South Dakota. He also participated in numerous conference calls with USDA and NPB members. He anticipates a report of the review to be available by the January meeting of the American Seed Trade Association (ASTA) in Huntington Beach, California.

Heaton traveled to Portland, Oregon in July to attend the annual meeting of the Association of American Seed Control Officials (AASCO). The most notable action at that meeting was the defeat of a proposal by New Hampshire to add a definition of genetically modified seed to the Recommended Uniform State Seed Law (RUSSL). Heaton holds several Chair positions and is the Vice President of AASCO. He will become the President of AASCO after the next meeting in Madison, Wisconsin during July 2011.

#### **8. Seed Biotechnology Center Activities Report**

Sue DiTomaso provided the Board with a copy of the general brochure for the UC Davis Seed Biotechnology Center (SBC). One recent activity has been SBC's participation in the production of very brief informative and educational videos posted to the internet through an effort called "Vantage Point." She urged the Board to view these on-line.

Jamie Shattuck reported on several other projects the SBC has been involved in:

- Development of fact sheets for the CSA Communication Committee
  - A fact sheet based on the recent economic study of the California Seed Industry conducted by the UC Davis Seed Biotechnology Center and the UC Agricultural Issues Center at UC Davis
  - A fact sheet about careers in the seed industry
- A project called “Biotechnology and Sustainability” which includes:
  - A webpage for the concept that biotech helps the sustainability of agriculture
  - A portable display for presentations at different venues
- A review of regulatory requirements for biotechnology in specialty crops
  - Are regulatory requirements hindering improvements of specialty crops?
    - ❖ Recently published in the October issue of Nature of Biotechnology.

Dr. Allen Van Deynze reported that the SBC has been very active in several research projects, including:

- Development of markers for specialty crop plant breeding – recently added melons
- Release of a 16,000 DNA molecular marker map for peppers
- Double Haploid development strategies for different crops

Michael Campbell reported that after receiving encouragement from the SBC Advisory Council, the Plant Breeding Academy has expanded to Europe. It is now training more plant breeders than any other institution in the world. Kent Bradford and Rale Gjuric will be traveling soon to Taiwan to discuss the possibilities of further expanding the Plant Breeding Academy to Asia, via a partnership with the Asian Pacific Seed Association.

Another project the SBC is pursuing is an educational program called Seed Business 101. Experienced and very knowledgeable speakers have been recruited to instruct on the five functional elements:

- Research and Development
- Production
- Operations
- Sales and Marketing
- Administration

The model includes a fictitious seed company, with fictitious numbers and various case studies in each of the above areas.

In 2009, the SBC hosted a Seed Biology: Production and Quality short course. This short course has become very successful and continues to draw a fairly large group of seed professionals. There were nearly 100 people that attended the two day course, which will be offered again in February 2011.

Chairman Hansen reminded members present that the Board previously approved funding of the SBC at the \$200,000 per year level and that this funding is good through June of 2013, which means in FY 2012 we will need to revisit the Board’s support.

## **9. Legislative Report**

Chris Zanobini reported that a new two-year legislative cycle will be starting soon. He reminded the Board that the California Seed Association stands ready to assist them with any legislation they may be interested in pursuing.

Results from the recent election present a very interesting set of circumstances that Zanobini believes will make the next few years extremely interesting, in terms of legislation and government policy. He related a recent news article that explained the following situation.

California now has a fully Democratic legislature and fully Democratic administration. In addition, the voters passed Proposition 25 which allows the state legislature to pass a state budget with only a majority vote and not the previous two-thirds vote. The voters also passed Proposition 36, however, which requires all new taxes and fees to be passed by a two-thirds vote. This will present some significant challenges to the Democrats because they can pass a budget with a simple majority but they can't increase taxes or fees as easily. These circumstances alone, should make the next few years very interesting.

The Seed Industry did support the campaign of Jerry Brown and is therefore very optimistic that our new Governor will continue to work with the industry about agricultural policies that might affect seed businesses in California.

Currently, various agricultural groups are trying to identify qualified individuals to serve in the new administration. It's important to get very knowledgeable people into the various agencies because so many policies are now being set in the regulatory agencies.

Two other Propositions, Prop 20 and Prop 27, both passed. This means that there will be changes to the way state districts and congressional districts are drawn up.

**10. Status of Seed Subvention Contracts and payment to counties**

Heaton provided a [Attachment 5] to summarize the seed work performed by counties during FY 2009. The counties reported 3,120 total hours, which works out to \$38.46 per hour from seed subvention. Heaton noted that this is approximately the same hourly rate as the prior year. The most recent estimate to equip and place a county biologist in the field is approximately \$100 to \$125/hr. depending on the county. The hourly rate of \$38.46 that the Seed Services Program pays for seed subvention is about 1/3<sup>rd</sup> of the total cost counties incur to provide a biologist for seed law work. Heaton reminded the Board that the subvention for seed law enforcement is only supposed to cover 1/3<sup>rd</sup> the cost of seed law enforcement.

The Report 6 summary also showed that counties issued 50 stop-sales on 182,500 pounds of grass seed and 76,300 pounds of agricultural seed. These are the most stop-sales that Heaton has observed since he started at CDFA. These stop-sales indicate that the counties are finding violations and taking appropriate action. He noted however, that the counties only reported 27 releases of stop-sale orders. This is indicative of a reporting lapse that Heaton must investigate. Errors on the Report 6 summary illustrate how it's necessary to maintain a regular dialogue with counties throughout the year. Since there are 58 counties the Seed Services Program deals with a constant turnover of administrators and staff at the county level. District Biologists from CDFA play an important role in maintaining the dialog with new county staff and commissioners.

Heaton also noted that county inspectors evaluated 2758 labels on seed shipped into their counties from out of state. These label evaluations are very beneficial to the Seed Services Program because they often identify firms that are not authorized to sell seed in California. Once notified, Heaton immediately sends a violating firm the standard application which requests authorization to sell seed in California. It is mainly through this type of enforcement that the Program has been able to collect additional assessments and prevent out of state firms from obtaining an unfair advantage by not paying the required assessment on sales.

**11. Nominating Committee Report**

Marc Meyer reported that the four members with terms set to expire March 31, 2011 have indicated they are all interested and willing to serve another three year term. In addition, the Committee asked Mike Campbell if he would be interested in serving as a public member to the Seed Advisory Board upon his retirement from UC Davis. Mr. Campbell stated he would.

Heaton reminded the Board that a Notice of Vacancy would be posted for all of the expiring terms and that if the Board would like to make a motion about the Nominating Committee's recommendation it will certainly be presented to the Secretary. He added however, that if there are additional inquiries from eligible candidates, those will also be presented for consideration by the Secretary.

Kelly Keithly motioned that the Board recommend appointment of the following individuals to a three year turn on the Seed Advisory Board, running from April 1, 2011 through March 31, 2014:

John McShane – Stover Seed Company, Los Angeles, CA  
George Hansen – Snow Seed Company, Salinas, CA  
Dennis Choate – Harris Moran Seed, Modesto, CA  
Rick Falconer – American Takii Inc., Salinas, CA  
Mike Campbell – Retired UC Davis employee – Public Member

Marc Meyer seconded the motion. Motion carried.

**12. Closed Executive Session**

Chairman Hansen inquired if there was a need for a closed executive session. There were no requests.

**13. Reconvene Executive Session**

Not necessary

**14. Public Comment**

Chairman Hansen asked if there were any additional comments from the public in attendance. None were made.

**15. Other Items – Next Meeting Date**

Chairman Hansen tentatively set the date for the next meeting on May 5, 2011 at 8:15 a.m.

**16. Adjournment**

Kelly Keithly motioned for adjournment.

Gabe Patin seconded the motion. Motion carried.  
Chairman Hansen adjourned the meeting at 10:45 a.m.

**17. Attachments 1 through 5**

Respectfully Submitted

John Heaton

# Report of Collections

Detail for : 2010

## 90059 - SEED SERVICES

Date Prepared: 10/25/2010

Collections have been deposited as

	<u>COLLECTION</u>	<u>REFUND AMOUNT</u>	<u>TOTAL ACCRETIONS</u>	<u>125700-97 LICENSE</u>	<u>121200-96 ASSESSMENT</u>	<u>LATE LIC. PENALTY</u>	<u>LATE ASSESSMENT PENALTY</u>	<u>46 MISC. FEES</u>	<u>100255 SUSPENSE BALANCE</u>
YTD TOTALS	\$1,388,015.11	\$0.00	\$1,388,015.10	\$19,690.00	\$1,357,634.96	\$304.00	\$8,965.74	\$1,420.40	\$0.00
Compare 10/11 Approved Budget =	<b>\$ 1,747,243.00</b>								
Short	\$399,227.89	round it to an even \$400,000 short							

### Comparison to Prior Year:

2010 Number of Licenses issued = 492\*      Reported Value of seed sold in previous FY (2009-10) **\$484,869,630**

versus

2009 Number of Licenses issued = 506      Reported Value of seed sold in previous FY (2008-09) \$534,143,103

**- \$49,273,473 means a drop of ~ \$50 million in reported sales.**

A \$50 million drop in reported sales translates into a **\$140,000 drop in collected assessments** when using the 28 cent assessment rate.

### In which category of seed did sales drop the most?

AgSales	VegSales	LawnSales	TotalSales	2008 Sales	AgSales	VegSales	LawnSales	TotalSales	2009 - 2008	AgSales	VegSales	LawnSales	TotalSales
\$65,837,280	\$127,115,404	\$31,935,693	\$224,888,377	177 OS Firms	\$75,881,003	\$146,869,491	\$38,966,638	\$261,717,132	OS Firms	-\$10,043,723	-\$19,754,088	-\$7,030,945	-\$36,828,756
\$98,912,901	\$146,946,518	\$14,121,835	\$259,981,254	208 CA Firms	\$123,157,188	\$129,211,896	\$20,056,886	\$272,425,970	CA Firms	-\$24,244,287	\$17,734,621	-\$5,935,051	-\$12,444,716
\$164,750,181	\$274,061,921	\$46,057,528	\$484,869,630	385 Total	\$199,038,191	\$276,081,387	\$59,023,525	\$534,143,103	<b>Sales Drop</b>	<b>-\$34,288,010</b>	<b>-\$2,019,466</b>	<b>-\$12,965,996</b>	<b>-\$49,273,472</b>

1<sup>st</sup> Question: Did everyone renew?



\*CDFA sent 23 cancellation letters in October for failure to renew. Since 503 firms were authorized in FY2009 we should have issued 483 authorizations (506-23) but we received 492. So net gain of 9 firms.

**Conclusion:** Collections are considerably less than the budget amount approved by the Board in 2009. However, in the YTD Budget Report for FY2009, actual expenditure for FY2009 were reported at \$1,205,066. Even with the lower reported sales and a lower assessment rate on those sales, the funds collected (\$1,388,015) are greater than the actual expenditures (\$1,205,066) reported for the Prior Year (2009). The present amount collected from assessments YTD is actually \$182,949 more than was reported spent by the Seed Services Program in FY2009. It is anticipated therefore, that the Seed Services Program will still be in the black at the end of FY2010, with adequate reserves.

**For sake of discussion:** If sales remained at \$534 million and the assessment was still 32 cents, collections would have been \$1,709,258. This is a bit less than the FY2010 Budget approved by the Board in May 2009. If sales had actually increased by 2.5% and the assessment remained at 32 cents, the collections would have been \$1,751,989 ... right on target by earlier projections... but admittedly more than justified by the present Budget Report for FY2009, which showed actual Program expenditures of \$1,205,066 (YTD). Hence, the Board did good! No need to collect more than is necessary.

**Summary of Statewide Seed Sampling by CDFA Biologists during FY2009  
Presented to the Seed Advisory Board - Nov 4, 2010**

June Rpt EOY  District	Approximate number of Samples to be collected monthly by District	Samples received by the CDFA Seed Laboratory for June-July 15, 2010	Samples received in June-July 15, 2010 that are on hold for errors	Samples released to the CDFA Seed Laboratory in June-July 15, 2010	Number of samples released to the CDFA Seed Lab YTD	Number of samples needed to be collected for 2009-2010 fiscal year	Number of Samples that should have been collected YTD	Number of samples successfully collected so far	Percentage of completion for collecting required samples YTD	Percentage of completion for collecting required samples for entire year
Redding	6	2	0	2	66	72	72	66	91.7	91.7
Sacramento	9.5	0	0	0	125	114	114	125	109.6	109.6
Fresno	22.5	49	0	49	270	270	270	270	100.0	100.0
Riverside	12	0	0	0	73	144	144	73	50.7	50.7
Totals	50	51	0	51	534	600	600	534	89.0	89.0

**Status of Lab Report Analysis:** 84% (449/534) analyzed YTD. So far 30 samples failed 90% were Ag seed. Failed mostly due to mislabeling of purity and inert material. Remaining 10% were miscellaneous label violations. Enforcement letters were sent.

**Summary of Seed Complaint Investigations:**

- 1 Nov. 2009 - received 4 grower complaints about sugarbeet seeds in Imperial County. Two of Four have settled.**  
involved extensive investigation: seed sampling, stand counts in multiple fields, monitoring harvest.
- 2 Conducted Investigative Committee Meeting on Hybrid Pepper Complaint in Ventura during February.**  
involved two Board members on the Committee. Settlement reached without going to mediation.
- 3 Conducted investigation about Conventional Corn allegedly sold as RR Corn to Spanish speaking farmer.**  
involved preliminary investigation with County. PCA recommended spraying crop with RoundUp. Issue with PCA recommendation. Bad idea. New seed provided.
- 4 Conducting investigation about mixup involving heirloom type Organic Tomato F1 Seeds.**  
involved multiple field visits, picture taking, sampling at seed suppliers, seed dealers, transplant greenhouses, invoices, flowcharts, seed testing, growouts. production cost analyses

Complaints are investigated while AABs and SAB perform other duties.

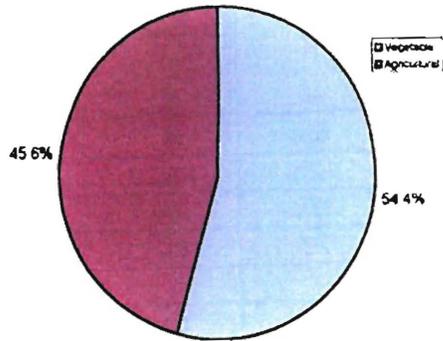
**O/S Travel**

AASCO Meeting to Portland = 1 week of travel

USDA/NSHS Review Team = 3 weeks of travel plus conf calls.

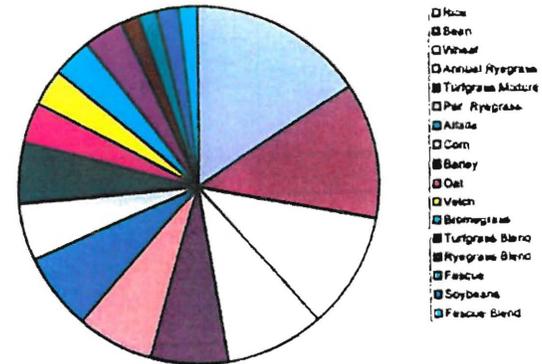
# Analysis of Seed Samples Collected by Ag. Biologists in the Sacramento District during FY 2009

## % Agricultural and Vegetable Seed Samples taken by Sac. District in FY2009

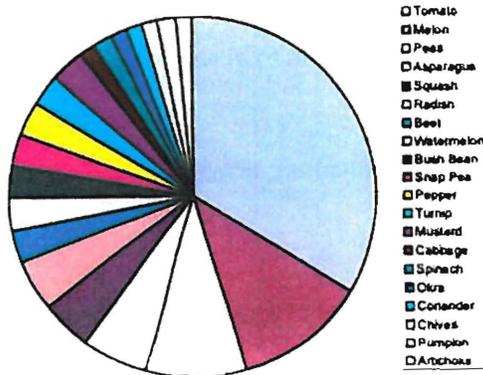


125 Total Seed Samples by Sac.

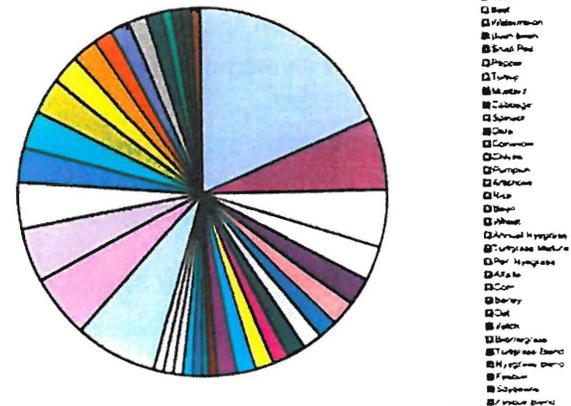
## % of Each Kind of Agricultural Seed Sampled by Sac. District in FY2009



## % of Each Kind of Vegetable Seed Sampled by Sac. District in FY2009



## % of Each Kind of All Seed Sampled by Sac. District in FY2009





### **What is the U.S. Plant Variety Protection Act (PVPA)?**

The U.S. Plant Variety Protection Act (PVPA) was enacted by Congress in 1970 to encourage the development of new varieties of crops and to make them available to the public. The protection enables the collection of royalties that, in turn, provide funding for development of other new varieties. Overall, the PVPA promotes progress in all segments of agriculture and ultimately benefits the American consumer.

### **Why do we need the PVPA?**

Prior to 1970, variety development in the United States was, for the most part, conducted by publicly financed institutions. The development of new varieties enabled farmers to reduce losses from destructive crop pests and it brought about improvements in quality of the crop produced. In spite of this, funding for variety development did not increase to keep pace with the needs of farmers and in some case, it began to decrease. As a result, fewer new varieties were developed. New sources of funding were needed in order for American farmers to remain competitive. Enactment of the PVPA in 1970 made it possible for royalties to be collected by the owner of a variety in the hope that it would provide a more stable and consistent source of funding for future variety development. In the first 25 years this law has been in effect, thousands of new varieties have been developed and protected by both public institutions and private companies.

The original law was very successful in stimulating an increase in variety development. However, in recent years, enforceability became a problem because the law did not give clear guidance in determining when a violation had taken place. Not being able to adequately enforce the PVPA caused unauthorized

production and sale of protected varieties to increase. The resulting nonpayment of royalties caused many breeding programs to be cut back, and some were eliminated completely. Amendments to the PVPA in 1994 and a decision by the U.S. Supreme Court in 1995 changed the enforceability of the law significantly.

### **How has compliance with the PVPA changed?**

The PVPA was amended by Congress in 1994. Those changes took effect on April 4, 1995. The amended PVPA will affect only varieties that receive protection after the effective date of the amended law.

The most important and far-reaching change is a U.S. Supreme Court decision handed down on January 15, 1995. The decision involved a PVPA infringement case between a farmer in Iowa and a major seed company. Both the old and newly amended PVPA give a "farmer the right to save seed." Prior to the decision, the PVPA was generally interpreted to mean that a farmer could save for, reproductive purposes, up to half the crop produced from a protected variety. **The U.S. Supreme Court interpreted the PVPA to mean that a farmer could only save the amount of seed of a protected variety necessary to plant their own farm.**

### **How is the PVPA enforced?**

The PVPA gives the owner of a protected variety the right to seek damages for lost royalties when a person or firm sells or participates in the sale of a protected variety without authorization. To collect damages, the owner of the protected variety must bring suit against the person or firm infringing on their PVPA rights. A court may order the payment of up to three times the amount of the royalty lost, plus cost for the

action. Under the amended PVPA, anyone assisting a farmer to sell seed of a protected variety without authorization may also be subject to triple damages. In addition, the amended PVPA gives the owner of a protected variety the ability to seek damages on the crop produced from unlawfully obtained seed of a protected variety.

The developers of varieties which are reproduced by seed may establish their ownership and obtain legal protection through the PVPA. Two options are available to the developer under the PVPA.

Under one option the developer of the variety or his agent protects his rights through contractual agreements and may sell either certified or uncertified seed of the variety.

The other option utilizes the provision of Title V of the Federal Seed Act (FSA) often called the certification option. A variety protected under this option may be legally sold by variety name only as a class of certified seed

The Seed Services Program in the California Department of Food and Agriculture (CDFA) is responsible for enforcement of the California Seed Law. In **Section 52489** it states: "It is unlawful for any person to violate the provisions of the United States Plant Variety Protection Act contained in Part J (commencing with Section 2531), Part K (commencing with Section 2541), or Part L (commencing with Section 2561) of Subchapter III of Chapter 57 of Title 7 of the United States Code, as enacted."

There are more than fifty County Agriculture Commissioners and Inspectors who assist CDFA to enforce the California Seed Law and Federal Seed Act throughout the state.

**SEED INSPECTION REPORT**  
**REPORT NUMBER 6**

Report work online at <https://secure.cdfa.ca.gov/egov/crs/login.aspx>

661 Total Months Reported

Date Printed: 03/28/2011

**Summary across all Counties for Fiscal Year 2009**

**1. ENFORCEMENT OF THE CALIFORNIA SEED LAW**

ACTIVITY	NUMBER	HOURS
PREMISES INSPECTED	913	830.18
LOTS/UNIQUE LABELS INSPECTED PER THE UNITS OF ACTIVITY LIST	3022	663.5
STOP-SALE ORDERS ISSUED	50	38.9
LBS. OF SEED ISSUED STOP-SALES VEG 0 AG 76300 GRASS 182500		
STOP-SALE ORDERS RELEASED	27	12.9
LBS. OF SEED RELEASED VEG 0 AG 74300 GRASS 140500		
UNREGISTERED LABELERS IDENTIFIED OR NOTIFIED TO REGISTER	6	6.5
OFFICIAL SAMPLES DRAWN	37	14
SEED COMPLAINTS	5	28.25
LABELS OF SEED SHIPMENTS AND/OR 008 REPORTS EVALUATED	2758	886.95
<b>LEGAL ACTION</b>		
HEARINGS		COURT ACTION
OFFICE	DIST. ATTY.	CITATIONS
0	0	0
		CONVICTIONS
		0
<b>TOTAL HOURS OF SEED LAW ENFORCEMENT</b>		<b>2481.18</b>

**2. SEED CERTIFICATION**

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN	54	64.6
CERTIFIED MILSS INSPECTED	73	120.5
HARVESTERS AND FIELD EQUIPMENT INSPECTED	918	520.25
INTERCOUNTY PERMITS ISSUED	653	252.7
INTERSTATE PERMITS ISSUED	355	106.6
<b>TOTAL HOURS FOR SEED CERTIFICATION</b>		<b>1064.65</b>

**3. MISCELLANEOUS ACTIVITY**

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN, SERVICE	485	317.6
SAMPLES DRAWN, US CUSTOMS	7	15.75
ADMINISTRATIVE SUPPORT		1274.91
<b>TOTAL HOURS FOR MISCELLANEOUS ACTIVITY</b>		<b>1608.26</b>

$2482 + \left(\frac{1}{2} * 1275\right) = 3120 \text{ hrs} \rightarrow \$38.46/\text{hr} \quad [\$120K/3120]$