Seed Advisory Board Meeting
CDFA Plant Diagnostics Center
3294 Meadowview Road
Sacramento, CA
8:15 AM, Thursday Nov 3, 2011

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1. Call to Order – Roll call

Chairman Hansen called the meeting to order at 8:22 am. The following members and guests were present:

Kelly Keithly	Paul Frey	Dennis Choate
Rick Falconer	Larry Hirahara	Robert Price
Gabe Patin	Michael Campbell	Jim Effenberger
Ken Scarlett	Betsy Peterson	Joshua Kress
John McShane	Deborah Meyer	Kent Bradford
Marc Meyer	John Heaton	Mike Colvin
George Hansen	Sue DiTomaso	Nick Condos

Chairman Hansen facilitated a request to move the Nominating Committee Report forward on the agenda to position six, just before the Report on Seed Services Activities.

2. **Acceptance of minutes from May 5, 2011 meeting**
   Mark Meyer motioned that the minutes be accepted.
   Kelly Keithly seconded the motion. Motion carried.

3. **Seed Services News – Items of Interest**
   Heaton provided each Board member with handout that briefly reported on the following important issues.
   - Retirement of USDA Director Dr. Richard Payne after 36 years of service. Dr. Payne was responsible for enforcement of the Federal Seed Act.
   - International Seed Marketing Specialist Perry Bohn of the USDA Seed Marketing and Testing Division has left Federal Service. He was responsible for several accreditation programs, administration of the OECD scheme, and represented the U.S. at various international meetings.
   - USDA Seed Marketing Specialist Gene Wilson assumed new duties as the Program Manager for the OECD Seed Schemes effective August 29, 2011.
   - At the September 22, 2011 meeting of the California Crop Improvement Association (CCIA) Board of Directors, it was reported that approximately 10% of the check tests performed by the CCIA seed lab had problems. The check tests are performed on random samples that were previously tested at approved commercial labs.
   - A change to section 3906 of the California Code of Regulations was approved and will be finalized on November 11, 2011. The change reduces the assessment from $0.28 to $0.25 per $100 of reported seed sales made during fiscal year 2011 and beyond.
   - An article in the publication Seed Shorts, a newsletter produced by the California Seed Association (CSA), reported that in October, President Obama signed into law a Free Trade Agreement with Columbia, Panama and South Korea. Heaton noted that representatives from Senegal recently visited the CDFA seed laboratory and representatives from the South Korean Ministry of Agriculture, as well as from China Supply and Marketing Cooperatives, are each scheduled to visit the CDFA seed laboratory in the fall. The foreign delegations are interested in the organization and quality of seed testing and seed law enforcement in California.
   - An article about the need for global harmonization for seed health and seed trade regulations. One provision was the mention of seed testing as a method to determine the absence of pests in seed shipments. In addition, the article reported that Brazil no longer accepts field inspections but now has import requirements based on seed testing.

4. **Seed Services Finances**
   John Heaton provided a handout reporting seed sales during FY2010 (Attachment 1). Sales for the following categories were reported.

   Vegetable seed sales in FY2010 were reported to be $337,337,690.
   Agricultural seed sales in FY2010 were reported to be $210,295,242
   Lawn seed sales in FY2010 were reported to be $43,109,594

   The total reported value of seed sold in California during FY2010 was $590,742,487.

   Collections from qualified seed sales in FY2010 and reported by firms were $1,588,342. This amount is $128,256 less than the previously recommended budget of $1,714,600.

Heaton was not concerned about this shortage since the Program normally does not spend the entire recommended budget. In addition, the expenditures for the prior year (FY2010) were only about $1,325,617. This expenditure amount is significantly lower than year-to-date collections in FY2011. It is likely therefore, that the present collections in FY2011 are more than adequate to cover expenditures in FY2011.

Heaton reminded the Board that a lower assessment rate on sales in FY2011 will go into effect November 11, 2011. He estimated that seed sales in FY2011should be approximately 12.3% higher than FY2010 based on recent trends of reported sales. Heaton therefore expects collections in FY2012 to be approximately the same as in FY2011 since the 11% reduction in assessment rate (from $0.28 to $0.25/$100 sales) will be offset by the 12.3% increase in sales. If the Program does not incur any unforeseen expenditures he does not anticipate a need to adjust the assessment rate higher in the next few years. Heaton explained that even if expenditures exceed collections for a few years, the Program has adequate reserves to cover shortages. After the lean years, he expects successive years of increased sales to once again generate more than enough collections for the Program to cover expenditures with a comfortable margin.

Chairman Hansen asked if there was a need to discuss any change to the twenty-five cent assessment rate. There were no requests for additional discussion.

Heaton continued with a report of the remaining payments for the bond debt. He reminded the Board that the bond debt payment was being paid by PCA 13016 which is the Seed Laboratory Ag Fund. The funds in the Seed Lab Ag Fund represent fees collected by the seed lab for processing service samples. The Board previously directed staff to only charge the bond debt payment to PCA 13016. There should be not other expenditures charged to that PCA.

The remaining bond debt payments are presented:

11/15/11	5/15/12	11/15/12	5/15/13	Total Remaining
$1,620	$31,620	$810	$30,810	$64,860

The Board reiterated their desire to pay-off the bond debt. Heaton explained that he previously looked into that idea but the Department's Financial Services Unit advised him it would be a very complicated and by the time he jumped through all the hurdles, the bond debt would be paid off anyway; or very close to being paid off. Heaton stated that he did not believe such an endeavor would be a good use of the Department or Program's resources. He further stated that the only thing it would achieve is to allow PCA 13016 to retain all of their collections for other expenditures, which can be paid for by the Seed Services Program anyway.

5. Developments for the Seed Laboratory – GF Reductions and the current MOU

Survey Results

Deborah Meyer related that during the last meeting, the Board requested the lab conduct a survey to determine what activities performed by the lab are important to the seed industry. The lab conducted a formal survey in May 2011 and sent a detailed report of results to Board members and various stakeholders in June 2011. For the present meeting, Deborah Meyer provided the Board a more condensed summary of the report, which focused on the industry portion of the results (Attachment 2). The summary presented results that demonstrated a

significant portion of the industry believes certain activities performed by the lab are important to the industry.

Ken Scarlett inquired about which respondents were counted to provide the statistics of the summary.

Heaton directed attention to the bottom of the handout which reported the number of observations in this portion of the survey. He stated there were sixty-six industry respondents in total; forty-five of the respondents were from seed companies, eight were from labs and thirteen respondents were from other seed-related businesses, such as dealers. Heaton noted that even the category "other seed related firms" was not considered, the survey still had fifty-three respondents from seed firms (eight plus forty-five). He suggested that this is a significant level of response because there are only two hundred and twenty-six firms who collect and pay assessments. The percent response from firms that pay the assessment and fund the bulk of the program was twenty-three percent.

The survey results indicate that industry respondents are supportive of the CDFA Seed Lab continuing to perform activities previously supported by general funds. The activities included testing samples for adherence to quarantine regulations, feed mill sample testing and seed identifications. The industry respondents also supported fee-for-service activities such as testing seed for phytosanitary certification and general analyses of seed quality for clients. A third category of activities that the industry respondents supported was training dignitaries and visiting scientists on seed testing, as well as conducting workshops for persons seeking certification as Registered Seed Technologists. A majority of the industry respondents indicated their willingness to pay for the above mentioned activities but did not support payment for feed mill sample testing. The consensus previously expressed by the Board was that the feed mill operators should pay for the testing of their feed mill samples.

Clarification of FAC Section 52356 about Funding the State Seed Laboratory

In preparation for the meeting, Heaton researched the ability of the program to charge for various lab activities. During his research he noticed that section 52356 of the Food and Agricultural code was changed July 1, 2011. He commented that he believes the prior version of 52356 was misinterpreted for several years. Previously people thought that 52356 set a limit to how much the Board could support expenditures by the seed lab; namely one-third of its total expenditures. Heaton provided a handout (Attachment 3) to clarify what he believes the seed law actually said about funding the state seed lab.

He explained that the activities of the seed lab were never meant to be limited to just testing regulatory seed samples for compliance to the seed law. As evidence for this position he cited section 52331 which states the Director shall establish by regulation, a reasonable schedule of fees for examinations and services except for those that are required for quarantines or other services that are not directly related to the enforcement of the chapter (i.e. the seed law). He emphasized that the mention of other services not directly related to the enforcement of the chapter means the lab is supposed to perform other activities. Furthermore, he noted that the statute prohibited the Secretary from charging fees for any of the activities required for quarantines and other services. Heaton further explained that the justification for performing other activities can be found in section 3 of the General Provisions in the Food and Agricultural code. Section 3 provides the Secretary broad authority to promote and protect the agricultural industry of the state and to protect public health safety and welfare. Other activities performed by the lab would fit that directive.

Heaton summarized that the Secretary has always had the discretion to spend funds collected from assessments in order to fund other activities performed for the Department. He explained that the one-third language in the prior version of section 52356 did not set a ceiling on how much total expenditure the lab could incur, but instead only stated the cost of regulatory samples cannot be more than one-third the lab's total expenditures. He clarified that there is a difference between limiting expenditures to three times the cost of processing regulatory samples and the stating that at least one-third of the seed lab's effort must be spent performing testing on regulatory seed samples.

To demonstrate the difference in these concepts, he provided the following example.

If regulatory samples cost $220,000 then 3 times $220,000 sets the ceiling at $660,000.
On the other hand, if total expenditures = $900,000, then expenditures on regulatory samples should be one-third or $300,000. The difference is $80,000 (i.e. $300,000 - $220,000).

Heaton concluded that there never really was a ceiling of one-third total expenditure for support of the seed lab. Instead the one-third clause previously found in section 52356 was meant to ensure that one-third of the lab's efforts were directed toward processing official or regulatory seed samples. He suggested that the debate is really a mute point at the present time because all of this confusion has been eliminated by the amendment of section 52356 on July 1, 2012. Section 52356 now states:

> "Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the department's cost of carrying out this chapter."

Ken Scarlett informed the Seed Advisory Board that the Board of Directors for the California Seed Association (CSA) recommended a new survey be conducted by an independent third party group. He then inquired about the timeframe for the budget cuts.

Deborah Meyer explained that the program already experienced a $210,000 cut in general funds for the current fiscal year and will lose the remaining $212,000 of general fund support in July 2012, which is less than one year away.

Gabe Patin asked what the difference was between private lab results and CDFA seed lab results.

Heaton replied that the law states a written report by the CDFA lab is prima facie evidence of the true condition of the seed lot. Consequently results from the CDFA seed lab hold a lot of weight in court, while private lab results do not always hold the same weight. He added that this is part of the reason foreign companies and other countries will only accept lab results from an official seed lab.

Scarlett reiterated the need to learn how important the seed lab is to the seed industry. He noted there was not a single company representative at the CSA Board meeting that uses the CDFA seed lab. He emphasized that the task at hand was to determine how valuable the other activities of the seed lab are to the industry and to what extent the industry wants to support the lab.

Gabe Patin commented that forty-five company representatives responded to the recent survey and the results seem to indicate they are supportive.

Heaton reminded the Board that the survey was sent to over 400 firms authorized to sell seed in California. The survey was done during a very short period of time at the request of the Board last May. He did not believe time would permit another survey to be conducted before a crucial decision must be made. He commented that there has been no discussion about the cost of an independent third party survey. He explained that since such a new survey would likely cost upwards of $10,000 the logistics would be very complicated; it would certainly involve a contract and bidding process. The Board would have to decide on a scope of work so he could draft a contract. Once the contract was reviewed by the CDFA Contracts Unit, it would have to be approved by the Department of General Services, which normally takes several weeks. After the contract development and review, he would be in a position to solicit bids, award the contract and have a start date for the new independent third party survey. Heaton expressed doubt the results of a new survey would be without its own contentious points and therefore he wasn't sure another survey would be worth the expense and trouble.

Betsy Peterson of CSA explained that the CSA Board would like a third-party independent party to conduct the survey because it would remove any perceived bias of a survey conducted by CDFA staff. Such an independent survey would give a true sense of the value of the program and the needs of the industry. She emphasized that the direction of the discussion at CSA was not whether the industry needs a seed lab but rather what services the industry needs from the state seed lab and then to make sure the funding is there.

Heaton asked how the situation would be different than the present situation if the results of a new survey were to indicate that the seed industry was supportive of the lab's efforts to analyze regulatory samples but not necessarily supportive of other activities? The Board would then have one survey showing industry support for "other activities" and one survey that showed the industry does not support "other activities." There would still be a split and the Board would be having the same discussion as the present discussion.

Paul Frey asked if it was possible to discern any pattern of response in the survey from seed businesses that operate domestically versus internationally.

Deborah Meyer replied that was not part of the survey.

Ken Scarlett noted some of the Board members export seed but do not use the CDFA seed lab. He reiterated that at a recent CSA meeting none of the representatives present claimed to use the services of the CDFA seed lab.

Heaton commented that even though an exporter may not directly use the services of the CDFA seed lab, they are receiving value indirectly. He explained that CDFA routinely has delegates from foreign countries asking to tour and visit the CDFA lab. They are inquiring about the California regulatory process, from seed on up.

Deborah Meyer added that many of the private seed laboratories, who test seeds for export, frequently send samples for identification to the CDFA lab. The CDFA lab performs the requested identification but does not inquire about the destination of the shipment. Since clients do not disclose why they want a seed test, it is not possible to measure how much of the "other activities" performed by the lab directly support export shipments.

John McShane asked if the lab charges a fee for those services.

Deborah explained that the law requires the lab to perform identifications for free.

Ken Scarlett summarized the situation. The CDFA seed lab is losing over $400,000 in general funding and they are looking to the seed industry to cover that amount. The question is at what level does the seed industry want to support the CDFA seed lab? He did not believe that a twenty-three percent response rate was a valid survey of the seed companies and consequently did not believe the industry is prepared to cover the additional funding needed for the lab.

Other members suggested that a twenty-three percent response rate is actually high in comparison to other surveys they have seen. Dr. Riad Balbaki added that ten percent is a typical response level for surveys.

Financial Considerations about the Level of Funding for the State Seed Laboratory

Heaton suggested the Board look at some other considerations about the level of funding for the seed laboratory. He provided a handout titled "Financial Considerations about the Level of Funding for the Seed Lab" (Attachment 4). The same handout was provided to the CSA Board of Directors at their midyear meeting in Monterey during September 2011.

The handout provided a comparison of the current year's collections (FY2011) to estimates of total expenditures by the Seed Services Program in the prior year (FY2010). Heaton noted that the expenditures by the Seed Services Program included payments to the seed lab, subvention to the counties and support of the UCD Seed Biotechnology Center. Despite the recent 12.5% reduction in the assessment rate from 32 cents to 28 cents per $100 of sales, if expenditures in FY2011 remain similar to expenditures for FY2010, the reserve will grow by about $262,000 during FY2011.

Paul Frey asked what assumptions were being made about increased collections in light of the reduced assessment rate.

Heaton explained that reported sales in FY2010 were 12.3% higher than the prior year. If a similar increase occurs for sales in FY2011, the new reduction in the assessment rate, from 28 cents to 25 cents per $100 of sales, will again be offset by a higher value of reported sales. For this reason, and because of the substantial reserves, Heaton believes the Program can provide additional support to the seed laboratory without having to worry about increasing the assessment rate in the foreseeable future.

The handout then provided a simple and brief analysis to determine the minimum financial needs of the seed laboratory.

Heaton noted that prior year salaries and benefits for lab staff, which included three scientists, two technicians and some temporary help, cost around $497,000. Since there are additional operating costs for electricity, supplies and other miscellaneous expenses, he estimated that the absolute minimal cost to run the lab would be around $650,000. He also noted that in May of 2008 the Board approved a recommendation to use a maximum amount of $497,028 from assessment collections to fund half the lab's expenditures in FY2010. Since any reduction in general fund spending reduces the lab's total expenditures, and since funding of the lab by the Seed Services is calculated as 50% of the lab's total expenditures, each cut in general funds means a corresponding cut in the level of support from assessment collections. Once all

general funds are removed in July 2012, the lab will not have any money to operate unless the Memorandum of Understanding between the Seed Services Program and the Seed Laboratory is changed.

An important consideration presented on the handout was that even if regulatory samples were sent to a private lab for analyses, the Seed Services Program would still incur a cost to provide a qualified person to oversee the arrangement. Heaton said that to adequately oversee such a contract, a Registered Seed Technologist (RST) employed by CDFA would need to provide the oversight and review the commercial lab's procedures. One requirement of being a Registered Seed Technologist, however, is to work at least ten percent of the time in a functioning seed lab. This means CDFA would still have to maintain a seed laboratory where the RST could work 10% of the time. Heaton estimated that just one Registered Seed Technologist with an office and laboratory would cost around $200,000. Under such a scenario, however, there would be no back-up staff or succession planning. He suggested it is very likely that certain time sensitive services would be interrupted if CDFA restructures to just one RST.

Heaton then explained that in addition to the $200,000 expense noted above, the Program would still incur the cost of contracting a private lab to test the other 90% of regulatory samples. He explained that he would still need a technician to prepare and track the regulatory seed samples for blind submission to the private lab. The technician would also be responsible for collating the lab results and reporting them back to the Seed Services Program, which ultimately reviews them and takes the appropriate enforcement actions. Heaton estimated that the salary and benefits cost for such a technician would be about $75,000, which is the average total cost for a state worker recently reported by the Sacramento Bee.

Heaton did not have a clear estimate of how much a private lab would charge to run 550 regulatory samples. He suggested that perhaps $100,000 would be a safe estimate. Consequently the cost for an alternative arrangement to the current situation should include $200,000 for a minimal CDFA seed lab with one Registered Seed Technologist, plus $75,000 for a technician and another $100,000 for a contract. This totals to $375,000.

Ken Scarlett noted that the California Crop Improvement Association has a minimally operating seed lab. He wondered how much their lab costs.

Heaton informed the Board that the seed laboratory at the California Crop Improvement Association audits about 10% of the samples that producers of certified seed submit to private labs. When he discussed the operating cost of the CCIA laboratory with their Director, it was confirmed that $400,000 was a good estimate.

Scarlett asked if the CCIA laboratory could analyze the CDFA regulatory seed samples for a fee.

Heaton said the CCIA could perform the analyses, just as any private lab could, however the California Department of Food and Agriculture would still need to maintain a Registered Seed Technologist and a minimal seed lab to provide oversight of CCIA. He reiterated that even if the Program contracted the analyses of regulatory seed samples, the Program would still have the expense of maintaining a minimal seed laboratory that can provide credentialed oversight of the private lab. The cost for that alternative scenario is approximately $375,000. Heaton cautioned that such a scenario would provide no back-up staff, no succession

planning, no workshops and no continuing education for staff in other labs. He also suggested that it is very likely that certain time sensitive services would be delayed due to lower staffing levels.

The summary of financial considerations on the handout concluded by stating the Program has adequate reserves to provide additional support to the seed laboratory if such a decision were made. The analysis indicated that it will not be necessary to increase the assessment rate in the foreseeable future even if the Seed Services Program has to cover part of the loss in general funds and ultimately support the lab at the $650,000 level.

Rick Falconer commented that when the laboratory was receiving general funds, it was money from the taxpayers and it made sense to not charge for services the taxpayer used. Since the general funds are being stopped, it makes sense to stop the free services.

Dr. Kent Bradford noted that FAC section 52286 requires the director to maintain an properly equipped laboratory for examining and testing seeds. He asked how the Secretary intends to do that without any general funds.

Heaton agreed this is really the question. He did not know which mechanisms might be implemented or developed if adequate support does not come from the assessment collections. He deferred to Nick Condos, the CDFA Pest Exclusion Branch Chief.

Nick Condos explained that the Department is currently looking at reductions to cover most of the cuts in funding. A consortium of industry representatives is working closely with the Secretary to determine which cuts should be made. He also noted that if necessary, laws can be changed from “shall” to “may” and can also be made to include conditions such as “based upon appropriated funds.” He reminded the Board that each industry feels the services they need are the most important. The Secretary and Industry Consortium are very seriously considering what absolutely must be done and how can those activities be paid for.

Heaton added that entire programs have recently been closed, and such a decision is not out of the realm of possibilities for the seed laboratory or the Seed Services Program. His opinion was that such decisions would be very detrimental to the seed industry.

Gabe Patin reminded the Board that the California Seed Act came into existence because the seedsmen of the industry in the state asked for a seed law.

Heaton agreed and stated that in the early 1970s the Program was closed entirely and within a couple of years, the industry wanted it back; mainly because they were losing their orderly market for seed sales. It was at that time that the fee for authorization to sell seed and the assessment on seed sales was put into place. Shortly after that, the seed lab was broken away from the Seed Services Program to provide a degree of separation between the lab and the regulating unit of the Program.

In an effort to keep things moving, Ken Scarlett recommended that since the Board previously agreed to provide $481,553 in support of the lab for FY2011, the Board should keep that recommendation in place regardless of the level of general funding the lab might receive.

Heaton replied that he could amend the Memorandum of Understanding between the Seed Lab and Seed Services to allow support to be at the $481,553 level regardless of the general funding.

Ken Scarlett then proposed a subcommittee be formed to consider the future level of funding for the seed laboratory.

Gabe Patin inquired if such a measure was being proposed because there's a perception by some members on the Board that the money is not being spent wisely. He did not feel that was the case.

Ken Scarlett did not believe there was such a perception. He explained that various members simply wanted to know what services were being provided and if they receive a benefit from them, how much should they pay for those services. He reiterated that a determination has to be made as to what target amount the Board will ultimately be willing to pay for. This is necessary so the industry knows how much they are responsible for and CDFA can plan accordingly.

Scarlett motioned that the Board recommend the level of funding to support the seed laboratory remain at $481,553 despite the cuts in general funds or any previous formula in the MOU that might conflict with that level of support. Motion carried.

Heaton asked about the idea for a new independent third party survey.

Ken Scarlett suggested that instead of a survey, a subcommittee could study what level of funding the industry is willing to pay for the seed lab.

Deborah Meyer noted that such a study and decision has to occur relatively soon since there are lengthy processes the Department must go through to notify affected people if a decision is made to fund the lab at a lower than adequate level,

Several Board members commented that they believe many people in the industry, as well as members of the CSA Board of Directors, do not understand the activities performed by the Seed Services Program and the seed laboratory.

Ken Scarlett anecdotally shared that after a recent presentation by Heaton at a CSA meeting, one seed company representative told him he was surprised to learn his activity of repackaging seed, qualified him as a seed labeler and not just a dealer.

Subcommittee Formed to Discuss the Future Level of Support for the State Seed Lab

Chairman Hansen formed a subcommittee to determine what level the Board should support the seed laboratory. The following members were appointed:

Ken Scarlett – Subcommittee Chairperson
Marc Meyer
Mike Campbell
John McShane
Kelly Keithly
Paul Frey

Heaton reminded the Board that the subcommittee must follow the rules of the Bagley Keen Act since three or more Board members will be meeting to discuss Board business.

Betsy Peterson asked if it would be possible to simply conduct a meeting of the participants under the auspices of the California Seed Association, not necessarily as a subcommittee.

Heaton replied that if Seed Advisory Board members meet to discuss business of the Seed Advisory Board, then the meeting must follow the rules of the Bagley Keene Act. He acknowledged that CSA members can discuss whatever they wish to discuss, however if there is intent by three or more Seed Advisory Board members to discuss business of the Board, then the Board members are obligated to follow the rules of the Bagley Keene Act. He stated it is important to follow the procedures of the Bagley Keene Act to maintain the integrity of the Board's activities and validity of any recommendations.

Ken Scarlett asked how much advance notice regarding subcommittee meetings, must be provided to the public.

Heaton said he needs to post the public meeting notice ten days in advance.

Scarlett announced that the subcommittee will most likely meet by conference call and that he will let Heaton know the date and time.

6. Nominating Committee Report

Board Vacancies

Marc Meyer reported that there are three members with terms set to expire March 31, 2012. The Nominating Committee recommended reappointment of Ken Scarlett and Larry Hirahara. Gabe Patin, however, informed the Nominating Committee that he will not seek reappointment.

Chairman Hansen recognized the current meeting was Gabe Patin's last. He offered sincere thanks and appreciation for the mentoring that Gabe provided to so many members. He thanked him for his years of devoted service to the Board.

Gabe stated that he enjoyed serving on the Board because he understands how important the Seed Law is for maintaining an orderly and fair market for seed sales in California.

Officer Nominations

The Nominating Committee recommended Rick Falconer as Chairman and Paul Frey as Vice Chairman, starting in FY2012 (i.e. @ the November 2012 meeting).

Marc Meyer motioned that the Board accept the Nominating Committee's recommendation. Gabe Patin seconded the motion. Motion carried.

Heaton informed the Board that he will post a public notice to announce the upcoming Board vacancies. He will accept applications and letters of interest from all interested and qualified individuals. He expressed optimism there would be a pool of qualified applicants because he has already been approached by several individuals about serving on the Board. Once the applications are received, Heaton will present the names, qualifications and any Board recommendations to the Secretary. He reminded the Board that efforts will be made to

maintain field and vegetable seed representation from the various geographic regions of the state.

7. Report on Seed Services Activities

Heaton reported that the Seed Services Program collected 91% of the 600 seed samples it set out to collect. The failure rate was 9.2% with eight out of ten failures being agricultural seed and two of every ten failed samples being vegetable seed (Attachment 5). The main reason for agricultural seed failures was misstatement of the purity. For vegetable seeds the most common reason for failure was low germination. Heaton noted that the MOU with county agricultural commissioners requires a statewide compliance of 90%. He was not comfortable with 91% compliance and consequently will increase enforcement efforts, probably in the form of more stop-sales.

The Seed Service Program received numerous seed complaints in FY2011. Heaton provided a sheet to summarize his efforts toward addressing seed complaints (Attachment 6). He explained that investigations for seed complaints require a tremendous amount of resources. The amount of time spent on seed complaint investigations is the main reason the staff in the Seed Services Program did not collect 100% of the target number of regulatory seed samples.

An additional handout (Attachment 7) was provided to summarize the seed law enforcement work performed by the counties. The format used for the report was exactly the same as the format each county uses to report their monthly seed work. The total statewide effort was reported to be 2988 hours. If the financial support for seed subvention, namely $120,000, is divided by total hours, the hourly rate calculates to be about $40 per hour. Heaton noted that the subvention program is only supposed to support one-third of the counties seed law enforcement efforts. A $40 level of support translates into an hourly rate of $120. Heaton stated that the $120 hourly rate is close to the actual cost reported about four years ago by an Agricultural Commissioner that tracked the entire cost to place a biologist in the field with all of the necessary equipment, such as trucks, fuel, salary and benefits. He expects that in the not too distant future, the California Agricultural Commissioners and Sealers Association (CACASA) may seek to increase the subvention amount to a level greater than $120,000.

Paul Frey inquired if the Seed Services Program publishes violations.

Heaton replied that the Program does not publish violations. The policy has been to obtain compliance rather than be punitive. He noted that the Federal Seed Regulatory and Testing Division does publish violations. He offered to explore the requirements to publish violations if the Board desired. He noted that the Program archives have several examples of violations being published in newspapers.

8. Seed Biotechnology Center - Activities Report

Sue DiTomaso briefly summarized the following activities at the Seed Biotechnology Center.

- Organized administrative, academic and scientific research meetings with industry representatives as part of the SBC's continuing outreach to industry.
- Conducted a stakeholders meeting where continued outreach to the public about seed biotechnology was strongly supported.

Coexistence

Dr. Kent Bradford briefly reported that the SBC organized a conference about the Science of Gene Flow in Agriculture and its Role in Co-existence. Approximately 120 experts from academia and industry discussed biology related to gene flow and persistence, as well as

current and upcoming technologies to control gene flow. The proceedings of the conference are on the SBC website and a summary paper will be completed shortly. Of note was the general consensus by attendees that zero tolerance for gene flow can not practically be achieved, however it may be reduced to very low levels.

Prior to the conference about the Science of Gene Flow in Agriculture and its Role in Co-existence, there was a committee meeting that explored what a compensation fund, if any, would look like if organic growers experienced contamination from biotech crops. Another discussion involved how such a fund would be administered.

Bradford cautioned that people should not conclude such a compensation fund can be formed. He noted however, that attempts to identify how such a fund would be administered suggest the concept may be further developed than previously believed. The proposals being considered, suggest that the seed industry should pay for these compensation funds. Another concept that may come into play is a self-insurance fund for growers.

Paul Frey commented that as a member of the Committee it was clear that the agenda was development of a compensation fund paid for by industry. When he became aware of this, he was inclined to not participate further, but he later decided that it was important to participate if for no other reason than to be a voice of objection to unacceptable proposals. Frey agreed that the charge of the Committee is to consider the development of a compensation fund, "if any." He stated that it is important the Committee keep in mind the "if any" concept.

Bradford concurred that it will be important for a minority report to be written so that people understand there was controversy about the committee's report. He has a survey of the organic industry taken in 2004 and it hard to document actual rejections in the market.

Dennis Choate asked if the charge of the Committee was to only look at the impact of gene flow on organics.

Bradford replied that the discussion included exports of conventional crops too. He stated that it seems the organic community is forcing the discussion. The models for compensation appear to be coming from persons associated with the Organic Coalition and others.

Paul Frey expressed a different observation in that the impetus for compensation appears to be coming from the Dakotas and is related to cereals.

John Heaton related that he has had recent inquiries from an organization that is interested in setting up some sort of compensation model for organic seed producers. Their desire is to increase availability of organic seeds to organic growers and their idea is to develop some sort of compensation fund that can be used to mitigate the risk of using untreated seeds to produce organic crops.

Paul Frey communicated that a very well written letter on this topic was sent to the Secretary. The letter strongly challenged the proposal and was signed by many major commodity groups.

Kent Bradford stated that gene flow is something the seed industry has lived with and managed for years. He noted that previous considerations for compensation mainly addressed the difference in price for the conventional crop and the organic crop. The current proposal included all costs related to any border areas, planning, testing and ultimately all cost related

to meeting the organic market. He believes the proposal could lend itself to many false claims that would be difficult to verify.

Larry Hirahara stated that the organic perspective is not very supportive of the co-existence concept. In particular, organic producers want organic seeds regardless of exceptions made by the National Organic Program.

Dennis Choate related that some parties, particularly in the European Union, have the expectation that not only is the seed GMO free, but that the seed was produced in a GMO free area.

Chairman Hansen noted that if the NOP only allows organic seed to be used to produce organic products, there will be a serious reduction in the number of varieties available for organic growers to use.

Outreach

Sue DiTomaso reported to the Board that the SBC is continuing to offer its outreach course called Seed Business 101. More recent efforts to refine the course have identified a need for a horticultural session and a field crops session.

The SBC will continue to offer various outreach courses including Breeding with Molecular Markers. The Plant Breeding Academy continues to be a success. The SBC has launched an Asian Plant Breeding Academy and has partnered with the African Orphan Crops Consortium to train plant breeders.

SBC continues to work on an effort to organize seed companies clustered in the area around UC Davis into a concept organization called Seed Central. She provided numerous examples of organizations founded to represent the interests of related and innovative companies that are clustered in various areas of the world. She cited the computer industry in the Silicon Valley as a nearby example. The purposes of Seed Central are to:

- support and strengthen UCD efforts
- support and strengthen the seed industry in this region
- facilitate intellectual property and tech transfer in the industry
- attract related business to the region

One project underway is the “PhenoLab” which would be a collaborative research lab that would focus on various plant biology disciplines and be housed on campus. There have also been discussions about companies having facilities on site as well.

Sue informed the Board that the results of the previously mentioned Delphi study have been recently published in Crop Science. She concluded her presentation by providing a calendar of upcoming events at the SBC.

Dr. Bradford concluded his report by announcing that Dr. Alan Van Deynze will be collaborating with the Koreans to finish sequencing the pepper genome. In addition, Bradford is continuing a project to use ceramic beads to control moisture in seeds that are stored. The project is funded by US AID and is targeted for use by small producers but may have greater application.

Rick Falconer motioned that the SBC report by accepted by the Board. John McShane seconded the motion. Motion carried.

9. Legislative Report

Nothing to report.

10. Closed Executive Session

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

11. Reconvene Executive Session

Not necessary

12. Public Comment

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

13. Other Items – Next Meeting Date

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

14. Adjournment

Kelly Keithly motioned for adjournment.
Gabe Patin seconded the motion. Motion carried.
Chairman Hansen adjourned the meeting at 10:45 a.m.

15. Attachments 1 through 7

Respectfully Submitted

John Heaton

Report of Collections

Detail for : 2011 **Attachment 1**

90059 - SEED SERVICES

Date Prepared: 11/2/2011

Collections have been deposited as follows:

	COLLECTION AMOUNT	REFUND AMOUNT	TOTAL ACCRETIONS	125700-97 LICENSE	121200-96 ASSESSMENT	125900 LATE LIC. PENALTY	125900 LATE ASSESSMENT PENALTY	125600-46 MISC. FEES	100255 SUSPENSE BALANCE
YTD TOTALS	$1,588,341.89	$0.00	$1,588,341.89	$20,999.94	1,558,362.52	$584.00	$7,543.39	$852.04	$0.00

Compare 11/12 Approved Budget = $ 1,714,600

Short $126,258.11

Reported Value of seed sold in previous FY $556,558,043.93

Number of Licenses Issued 525 $0.00 = Sum of overpayments

REPORTED SALES AND COLLECTIONS

Current Reporting Year					Prior Reporting Year					Comparison of Most Recent Reporting Years				
2010 Sales	AgSales	VegSales	LawnSales	TotalSales	PY 2009 Sales	PY AgSales	PY VegSales	PY LawnSales	PY TotalSales	Diff. 2010 - 2009	Diff. Ag Sales	Diff. Veg. Sales	Diff. LawnSales	Diff. TotalSales
170 OS Firms	$93,475,469	$172,783,538	$28,929,786	$295,179,811	171 OS Firms	$65,837,280	$127,115,404	$31,935,693	$224,888,377	OS Firms	$27,638,189	$45,668,134	-$3,005,907	$70,300,416
226 CA Firms	$116,819,774	$164,554,152	$14,179,769	$293,079,385	213 CA Firms	$98,912,901	$146,946,518	$14,121,835	$259,981,254	CA Firms	$17,906,873	$17,607,635	$57,933	$35,572,441
396 Total	$210,295,242	$337,337,690	$43,109,554	$590,742,487	384 Total	$164,750,181	$274,061,921	$46,057,528	$484,869,630	Sales Change	$45,545,062	$63,275,769	-$2,947,974	$105,872,856
														22% Inc

% Sales by OS vs CA Firms in FY 2010					% Sales by OS vs CA Firms in FY 2009					Change in % Sales by OS vs CA Firms from FY 2009 to FY 2010				
2010 Sales	AgSales	VegSales	LawnSales	TotalSales	PY 2009 Sales	AgSales	VegSales	LawnSales	TotalSales	2010 vs 2009	AgSales	VegSales	LawnSales	TotalSales
OS % of Total	44%	51%	67%	50%	OS % of Total	40%	46%	69%	46%	OS % of Total	4%	5%	-2%	4%
CA % of Total	56%	49%	33%	50%	CA % of Total	60%	54%	31%	54%	CA % of Total	-4%	-5%	2%	-4%

At the Nov. 2010 meeting (last year), the Seed Services Program reported a $50 million drop in reported sales for FY2009. Contrast that with an increase in reported sales for FY 2010 of approximately $106 million.

The increase in reported sales has resulted in total collected assessments of $1,558,363. Combining that with fees collected, brings total collections to $1,588,342, which is approximately $262,000 more than spent by the program in the PY.

A reduction of the assessment from 28 cents to 25 cents has already been approved and will be final in regulations on Nov. 11, 2011.

If sales increase approximately 10% next year, then assessment collections will be slightly higher than this year at about $1,625,000, even with the 25 cent assessment rate.

BOND DEBT UPDATE	11/15/11	5/15/12	11/15/12	5/15/13	Total Remaining
	$1,620	$31,620	$810	$30,810	$64,860

Results of Survey to Identify Essential Activities of CDFA Seed Laboratory

Presented to the California Seed Advisory Board – November 3, 2011

Table 1. Survey response by Industry regarding activities supported by the General Fund.

Activity supported by the General Fund	Industry Respondents	
	Important to critically important to the marketing and/or movement of product	Willing to pay for this activity
Quarantine Testing	81% yes	58% yes
Feed Mill Certification Testing	52% yes	31% yes
Seed & Fruit Identification	75% yes	52% yes

Table 2. Survey response by Industry regarding activities performed on a fee for service basis.

Fee Based Services	Service important to critically important to the marketing and/or movement of products	CDFA-SSL should continue to provide service
Seed Quality Assessment Testing	80% yes	79% yes
Phytosanitary Testing	81% yes	83% yes
Weed Seed Identification & Viability Testing	52% yes	57% yes

Table 3. Survey response regarding public service activities and training.

	Activity important to critically important to the marketing and/or movement of products	CDFA-SSL should continue to provide these services
Public Service Activities: Consultation services, hosting visiting scientists and dignitaries, public outreach, CDFA representation in professional seed organizations.	64% yes	68% yes
Adequately trained seed technologists are important to your business.	80% yes	71% yes

N = 66 industry respondents (45 from seed companies, 8 from labs + 13 other seed related businesses.

226 CA firms collect and pay the assessment. (45+8)/226 = 23% If both OS and CA then 13% response.

Clarification on FAC sections about funding the State Seed Laboratory
Seed Advisory Board Meeting – Nov 3, 2011

During the Fiscal Year (FY) 91-92, the general funding level of the CDFA Seed Laboratory was reduced. Since that time, the Seed Advisory Board has annually recommended that the Secretary use additional funds collected from assessments to fund up to one-half the operating costs of the Seed Laboratory. Although 50% funded by funds collected from the assessment on seed sales, It is important to understand that the activities of the seed lab were never meant to be limited to testing regulatory samples for compliance to the California Seed Law. This is apparent in the text of the following sections of the California Seed Law.

> **52286**. The director ***shall maintain a properly equipped laboratory*** for examining and testing seeds.
>
> **52331.** The director, by regulations, shall do all of the following:
> (d) Establish a reasonable schedule of **fees for tests**, examinations, and services ***EXCEPT those which are required for quarantine or other purposes, NOT DIRECTLY RELATED TO THE ENFORCEMENT OF THIS CHAPTER***. The schedule shall be based upon the approximate cost of the service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.
>
> **52321**. All money that is received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be expended only for the purpose of this chapter.
>
> > Note: In the general provisions of the California Food and Agricultural Code, section 3 states that the provisions of the code are enacted in the exercise of the power of this state for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare.

So from section 52331 it is clear that the Seed Laboratory is meant to perform other activities for the Department, including activities that are not directly related to the chapter. In addition, there is statutory authority to cover the cost of those activities with funds collected from assessments. In addition, those "other activities", are exempted from fees per section 52331 of the chapter.

In short, the chapter allows for expenditures of funds from an assessment on seed sales to perform other activities.

Admittedly "other purposes not directly related to enforcement of this chapter" is a vague phrase but presumably includes:

- samples received from County Agricultural Commissioners for purposes of feed mill certification.
- samples received from various state, local or government programs for propagule identification.

The costs for those activities were previously covered by General Funds, however the Department did have the discretion to use funds from assessments. The Secretary chose not to.

Clarification on FAC sections about funding the State Seed Laboratory
Seed Advisory Board Meeting – Nov 3, 2011

To clarify, section 3 established that provisions of the code are enacted for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare. Section 52321 established that the Secretary has the authority to use funds for all purposes of the chapter. Section 52331 established that the lab's activities may include quarantine or other purposes not directly related to the chapter and fees cannot be assigned for those activities.

One-third maximum funding of total expenditures or one-third of lab's expenditures?

A previous version of section 52356 stated that **expenditures by the lab** from assessments on seed sales and fees, **shall not exceed the Department's cost of carrying out the chapter**. That same section further stated that the expenditures by the lab for processing official or **regulatory seed samples should not exceed one-third the lab's total expenditures.**

This language did not mean however, that expenditures from assessments and fees toward support of the seed lab were limited to one-third the cost of the lab. In fact it only said that expenditures for official samples could not exceed one-third the total expenditures of the lab. In other words the ceiling for lab expenditures could be whatever it was but the cost for regulatory samples was only supposed to be one-third of that ceiling.

There is a difference when you say:

Total expenditures = 3 x reg. samples versus the cost of reg Samples = 1/3 total costs.

For example:

If regulatory samples cost $220,000 then 3 x $220,000 = $660,000

If total expenditures = $900,000 then 1/3 total costs = $300,000

There is a difference of $110,000 between $330,000 and $220,000.

The point is that there really never has been a one-third ceiling on support of the seed lab. The one-third clause only set a limit on how much could be expended by the lab for processing official samples. It did not set a limit on how much of the lab's total budget could come from assessments and fees collected for purposes of the chapter.

This confusion was eliminated with the recent amendment of section 52356.

~~**OLD 52356.** Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the Department's cost of carrying out this chapter, including only that portion of State Seed Laboratory activity involved in official samples, which shall not exceed one-third of the net operating cost of the State Seed Laboratory. No official samples shall be analyzed by the Department whenever the cost of that analysis exceeds one-third of the net operating cost of the laboratory.~~

Clarification on FAC sections about funding the State Seed Laboratory
Seed Advisory Board Meeting – Nov 3, 2011

NEW 52356. Total expenditures from funds derived from registration fees and dollar volume assessments **under this chapter** shall not exceed the department's cost of carrying out this chapter.

Points to consider:

1) The annual expenditure for testing regulatory or official samples never really was supposed to set a ceiling for the seed lab budget. It is actually the other way around; regulatory samples were not to exceed one-third the lab's total budget.

2) Funds from assessments and fees can be used to fund the seed lab entirely – this has always been the case but is now more clearly stated with the amended version of section 52356.

3.) The new version of 52356 removes the confusion about the one-third concept.

4.) Section 52363 states that a report from the lab is prima facie evidence... which is very important for enforcements.

52363. (a) Any sample which is taken by an enforcement officer in accordance with the regulations which are adopted pursuant to this chapter for the taking of official samples is **prima facie evidence** of the true condition of the entire lot from which the sample was taken. The presumption established by this subdivision is a presumption affecting the burden of proof.
(b) **A written report which is issued by the State Seed Laboratory** that shows the analysis of any such sample **is prima facie evidence** of the true analysis of the entire lot from which the sample was taken. The presumption established by this subdivision is a presumption affecting the burden of proof, but it does not apply in a criminal action.

5.) Even if a private lab performs the testing of regulatory samples, the state can still use funds from assessments and fees to fund the seed lab for other activities. In addition, the Seed Services Program would have the added expense of contracting the testing of regulatory samples to a private lab and then providing the credentialed oversight. The law would have to be changed to allow results from a designated private lab to be prima facie evidence.

FINANCIAL CONSIDERATIONS ABOUT THE LEVEL OF FUNDING FOR THE SEED LAB

By John Heaton – Sr. Agricultural Biologist – CDFA Seed Services Program -October 31, 2011

COMPARE CY COLLECTIONS TO PY EXPENDITURES

CURRENT YEAR (CY) STATUS:

For FY 2011… the recommended budget for Seed Services (Includes SBC funding, County Subvention and CDFA Lab)	$ 1,714,600
Funding for the CDFA Seed lab authorized to as much as But not more than ½ total lab expenditures	$ 481,553
Seed Program Collections YTD from renewal after the reduction in assessment rate from 32 to 28 cents/$100 sales	$ 1,588,214

ACTUAL EXPENSES PY :

PY (2010) Seed Services Expenditures with MOUs MARS Rpt w/ UC & Lab + Co. Subvention Costs	$ 1,325,617
PY (2010) …. ½ Lab Expenditures (1st Payment was) Note: max approved by SAB was $449,028	$ 423,929
So total Lab Expend in FY2010 were 2 X $423,929 =	$ 847,858

COLLECTIONS

For FY 2011, the Seed Services Program has already collected **$262,000 more** than it spent in FY2010 ($1,587,617 - $1,325,617). This is ***after*** a 12.5% reduction in the assessment rate.

> Background note: The Board approved a reduction in the assessment rate from 32 to 28 cents in order to prevent the reserve from growing larger and to provide a savings to seed firms that pay assessments. After projections in FY2010 showed the reserve would still continue to grow, the Board recommended a second reduction in the assessment rate on sales in FY2011; from 28 cents to 25 cents/$100. This new reduction has already been implemented in the regulations and will be collected starting July 2012. It represents a second reduction in the assessment rate over the last three years.

FOR FY2011

Despite the reduction in assessment rate, if expenditures in FY2011 are similar to the PY (FY2010), the reserve will grow by about **$262,000** ($1,587,617 - $1,325,617 = $261,000).

FOR FY 2012

Even though the assessment rate on sales made in FY2011 was recently changed to 25 cents/ $100, , the expected increase in the value of seed sold in FY2011 should still generate collections that offset expected reductions due to the new 25 cent assessment rate. The basis for this assertion is the fact that

reported sales in FY 2010 increased by 12.3% over the PY. The 11% reduction in assessment rates is likely to be offset by a similar increase in reported sales for FY2011.

Calc. for increase in sales over PY: [($556,558,044 - $495,362,980) / $495,3629,800] x 100 = 12.3%

This means that despite the combined reduction of 22% in the assessment rate over the last three years, it has not been necessary to dip into the reserve in order to maintain the current level of program support. In fact, for FY2011 it appears that the reserve will grow minimally by ~ $262,000 if the current level of program support is maintained. The current level includes maximum funding of the lab at $481,553 before consideration of General Funding levels.

LAB BUDGET FOR FY2011

The New General Fund allocation for the seed lab in FY 2011 is $207,175.

This amount is the maximum that will go toward General Fund payment for the lab.

The MOU with Seed Services calls for ½ of total lab expenses to be paid by Seed Services.

This means the total lab expenditure (MOU + GF) can only be $414,350 in FY2011.

Payment by Seed Services would be $207,175 which is considerably less than $481,553 recommended as the maximum payment to the lab by the Board in May 2010. In fact, a payment of $207,175 would represent a payment of 24% of the lab's total expenditures in the prior year of FY2010 [recall that PY lab expenditures were $847,858].

PY Lab Salaries & Benefits alone cost ~$497,000/yr
Includes 3 scientists and two technicians plus temp help ~13K.

The Seed Services Program estimates that there is a minimal cost of ~$650,000 to staff and run the seed lab. This cost occurs after some reassignments and cost cutting measures but reflects some additional expenses like Communications, Postage, In-State Travel, facilities, Equipment, Repairs, Division and Admin, IT etc on top of the staff salaries and benefits.

IMPORTANT CONSIDERATION: Even contracting-out the regulatory samples to private labs would incur some expense. Someone would have to assume the duty of approving and monitoring the private labs for regulatory samples. That someone would have credential and knowledge about seed analysis and therefore would have to be a Registered Seed Technologist. In order to maintain their status as a Registered Seed Technologist, that individual has to work at least 10% in a working seed lab. So the state would still have to have a seed lab where the RST spends 10% of their time running samples.

At the very minimum, one registered seed technologist with an office and lab would cost in the neighborhood of $200,000. This includes their salary, benefits and expenses like facilities operations,

communications, postage, In-State travel, equipment purchases and repairs, Division and Admin costs as well as IT support. After that expense, you still have the cost for the private labs to perform the analyses of the 600 regulatory samples. In addition, the samples still need to be prepared and tracked by a technician who would also input lab results for final analysis and enforcement by the CDFA Seed Services Program. The cost for the FT technician would be about $75,000.

So even with CDFA's lab not running regulatory samples, there is a minimum expense of $200,000 + $75,000 + $100,000 (contract maybe) = $375,000, which is already more than the $207,000 allocated from the GF. The point being, to have a bare minimum lab requires at least $375,000. This is a lab with no redundancy and only monitoring the regulatory samples. There would be no succession of staff or extra activities such as mini-courses for continuing education.

THE DISCUSSION:

Since the GF has reduced support to the Seed Lab for FY2011 in the amount of ~ $210,000, the questions appears to be:

Does the industry wish the Program to provide approximately the same level of services in FY2011?

> If yes, then is the industry willing to modify the MOU and recommend that the Secretary use assessment collections to the previously approved maximum level of $481,553(or higher) for FY2011 before the GF cuts were enacted?
>
> > This would provide $481,553 + $207,000 = $688,553; probably no layoffs and approximately the same level of operations.

Keep in mind that FAC section 52356 was changed and the cost of regulatory samples is no longer limited to one-third the lab's budget. (see end of doc for FAC sections).

This means the industry would be willing to use part of the $262,000 collected above and beyond the prior year's expenditures by the Seed Services Program to offset general fund cuts. Otherwise all of the $262,000 plus perhaps $100,000 more (MOU savings) will go the reserve (~ $362,000 to reserve).

> The alternative to utilizing funds from the assessments to offset the $210,000 GF loss is a reduction in lab staff and a corresponding reduction in activities. It might be possible to arrange some reassignment to Seed Services, to avoid some of layoffs.

As mentioned before, consideration should be given to the fact that regardless of the activities performed by the lab, there is real and minimal fixed expense to simply provide and staff a lab for regulatory seed samples. The minimal amount does not provide for any back-up staff, any succession planning, or any extra activities such as mini-courses for private lab personnel.

If the industry wants a reduced level of service, does there need to be a recommendation about how much funding the industry is willing to provide in future years?

FINANCIAL CONSIDERATIONS ABOUT THE LEVEL OF FUNDING FOR THE SEED LAB

By John Heaton – Sr. Agricultural Biologist – CDFA Seed Services Program -October 31, 2011

Consider: The present MOU pays for ½ the labs expenditures. Next year there will be $0 GF expenditure for the lab. Does this mean the MOU should go to $0?

Does the industry want regulatory samples collected and analyzed at all?

If yes, there is a minimum cost of ~ $375,000 to farm out the samples or to just do regulatory samples and nothing more, or approximately ~$414,350 at CDFA after some staff layoffs and reduction of other activities.

In short, the industry was willing to pay as much as $481,553 in FY2011 when the GF matched. Even with that level of support and an assessment rate cut, the industry will be adding about $262,000 to the reserve and another cut in the assessment rate is in place for next year.

Is the industry willing to provide that same level of support even without a general fund match?

Is the industry willing to provide the entire $650,000 in FY2012 as long as the assessment rate reduction remains in place?

SUMMARY OF SITUATION:

An MOU is currently in place to provide funding for up to one-half of the lab's expenditures in FY2011. It states that payment from assessments collected by the Seed Services Program is not to exceed $481,553. Any reduction in GF expenditure by the lab results in a like reduction in total lab expenditures and a like reduction in payment by the Seed Services Program per the MOU. GF for 2011 = $207, 175. Should MOU match = $207,175 or should a new MOU be prepared?

? MOTION TO BE CONSIDERED?

The SAB and CSA (or perhaps the consortium) may wish to consider if the industry is willing to recommend that the Secretary exceed the ½ level of support for lab expenditures or if the Secretary should apply a fixed dollar amount from assessments toward support of lab expenditures.

Summary of Regulatory Sampling by CDFA Biologists in FY 2010-11

Presented to SAB - Nov 3, 2011

District	Approximate number of Samples to be collected monthly by District	Samples received by the CDFA Seed Laboratory forJune 2011	Samples received in June 2010 that are on hold for errors	Samples released to the CDFA Seed Laboratory in June 2011	Number of samples released to the CDFA Seed Lab YTD	Number of samples needed to be collected for 2010-2011 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	29	1	28	**74**	72	72	74	103	**103**
Sacramento	9.5	9	0	9	**114**	114	114	114	100	**100**
Fresno	22.5	69	0	69	**271**	270	270	271	100	**100**
Riverside	12	0	0	0	**86**	144	144	86	60	**60**
Totals	50	107	1	106	**545**	600	600	545	91	**91**

TESTING RESULTS

		Rate
# Failed	**50**	**9.20%**
# Passsed	**495**	**90.80%**
Total	**545**	

% of Failed Samples.

Veg. Seed	Ag Seed
20%	**80%**

Low germination was main cause of Veg Seed Failure
Out of Tolerance for purity was main failure for Ag Seed

Number of Samples Submitted for 2010-2011

Summary of Seed Complaint Activities

Presented to the Seed Advisory Board – Nov 3, 2011

Sugar beet seed complaint in the Imperial Valley concluded in June 2011.

June 2011 – Coordinated a trace back to seed believed to be the source of basil plants that were infected with new race of downy mildew (seed-borne). I was also tasked with coordinating the destruction of plug plants by county staff.

- Seed Services Biologists were tasked with investigations and inspections and numerous sites.

Formal Seed Complaints in 2011

1. Bacterial Canker on Tomatoes – July 2011to October 2011 - Sacramento area
   - samples taken and submitted to pathology lab for testing.
   - tests of seed for BC were negative.
   - enforcements for labeling deficiencies

2. Mushy mini watermelons – August 2011 to September 2011 – Central Valley
   - briefly investigated. Complaint not accepted

3. Alleged contamination of Pasture Mix with tarweed – August 2011 to? So Cal
   - enforcements for purity non compliance
   - anticipate additional enforcements for labeling deficiencies of invoice.

4. Alleged variety mix on specialty hybrid melons - September 2011 - Central Valley
   - anticipate enforcements for labeling deficiencies

5. Alleged contamination of orchardgrass with ryegrass. – October 2011 to ? Lassen
   - anticipate enforcements for labeling deficiencies

Each complaint requires visits to document the problem. Investigations may include the collection of seed or plant samples, stand counts in the field, submissions to labs, general discussions with the grower and labeler/dealer about the seed complaint process.

After initial contact, various records are requested from the complainant and respondent. The correspondence and fact gathering can take weeks or even months. It is not uncommon that discovery of one fact leads to further need for investigation.

For example. A disclosure of abnormal rainfall causing ruts that prevented herbicide application may lead to research about unique weather conditions that may have triggered an infestation of weeds from dormant seeds in the soil.

Pesticide records may indicate the presence of a previous crop that could have been the source of contamination.

A review of the labels and invoices from the grower may implicate the business practices of the supplier. Sometimes delivery tags don't match seed lot numbers on the bag tags.

Label deficiencies require clarification by Seed Services and more investigation.

Attachment 7

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
PLANT HEALTH AND PEST PREVENTION SERVICES
68-019 (Rev. 4/06)

SEED INSPECTION REPORT
REPORT NUMBER 6

CDFA

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

574 Total Months Reported

Date Printed: 11/02/2011

Summary across all Counties for Fiscal Year 2010

1. ENFORCEMENT OF THE CALIFORNIA SEED LAW

ACTIVITY	NUMBER	HOURS
PREMISES INSPECTED	770	705.3
LOTS/UNIQUE LABELS INSPECTED PER THE UNITS OF ACTIVITY LIST	2534	626.5
STOP-SALE ORDERS ISSUED	21	9.15
LBS. OF SEED ISSUED STOP-SALES VEG 0 AG 500 GRASS 54686		
STOP-SALE ORDERS RELEASED	31	14.2
LBS. OF SEED RELEASED VEG 0 AG 2270 GRASS 51775		
UNREGISTERED LABELERS IDENTIFIED OR NOTIFIED TO REGISTER	3	7
OFFICIAL SAMPLES DRAWN	62	5.5
SEED COMPLAINTS	3	8.5
LABELS OF SEED SHIPMENTS AND/OR 008 REPORTS EVALUATED	3057	849.05
LEGAL ACTION		

HEARINGS		COURT ACTION	
OFFICE	DIST. ATTY.	CITATIONS	CONVICTIONS
0	0	0	0

TOTAL HOURS OF SEED LAW ENFORCEMENT	**2225.2**

2. SEED CERTIFICATION

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN	150	57.1
CERTIFIED MILSS INSPECTED	130	220.5
HARVESTERS AND FIELD EQUIPMENT INSPECTED	1158	506.05
INTERCOUNTY PERMITS ISSUED	478	188.9
INTERSTATE PERMITS ISSUED	349	77.7
TOTAL HOURS FOR SEED CERTIFICATION		**1050.25**

3. MISCELLANEOUS ACTIVITY

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN, SERVICE	508	255
SAMPLES DRAWN, US CUSTOMS	16	5.5
ADMINISTRATIVE SUPPORT		1265.83
TOTAL HOURS FOR MISCELLANEOUS ACTIVITY		**1526.33**

2225 + 1526/2 = 2988 $120K/2988 hr = $40.16/hr