Testimony in Support of HB 2882

May 8, 2019

Dear Chair Holvey and Members of the Committee:

My name is Amy Wong and I represent a coalition of non-profit organizations that work on regenerative agriculture issues, including protecting Oregon farmers, especially seed growers, from genetically engineered (GE) contamination. I am here in support of HB 2882.

Testimony

The original intent behind HB 2882, and 2017's version of the bill, HB 2739, is to place liability for GE contamination on the patent holders and manufacturers of the GE seeds that are responsible for GE contamination so as to not pit farmer against farmer. While I understand that at this time the legislature cannot get behind putting liability on the corporations responsible for the GE products that cause GE contamination, I am appreciative of the intent behind the -2 amendment. This intent is to finally declare that the Oregon Department of Agriculture has the authority to regulate GE crops. However, the -2 amendment includes Section (3), which is not germane to granting this authority. Oregon needs to wait for ODA to promulgate rules to prevent GE contamination before taking any other legislative steps that could have unforeseen consequences.

The nonprofit organizations that I represent have been coming to Salem to advocate on GE contamination issues for many years and are excited that we are finally making a small bit of progress. We are grassroots, nonprofit organizations that receive no corporate funding. I first came to Salem in 2011 to advocate for GE contamination issues and was here during the 2013 special session when the legislature preempted counties from regulating the types of seeds grown in their jurisdictions through SB 863 with very little notice. After SB 863 passed, it was the understanding of many that because the legislature took away the right of local communities to regulate GE crops, the state would address GE contamination issues and assembled a task force to do so. I am disappointed that six years later nothing has been done. It is especially disappointing that the voters of Josephine County, who voted 58% in favor of banning GE crops, have been disenfranchised by the passage of 2013's SB 863, with no recourse in sight.

With the removal of Section (3), HB 2882-2 is an incremental step forward to address the inequity caused by SB 863, as well as the regulatory gaps in GE policy at both the federal and state level, so that Oregon can find solutions that protect the interests of organic and non-GE farmers in a way that does not place the entire burden for fencing out GE contamination on them. We have supporters who farm GE, as well as organic, but they understand that GE crops should not be grown with impunity. Unfortunately, not all GE farmers share this sentiment, which is why I urge you to move this legislation forward.

Why GE Regulations are Needed in Oregon

GE technology requires human intervention, often taking genes from a species that never would be able to cross in nature with the species in which it is being inserted. GE technology is not natural selection or selective breeding. And the vast majority of GE crops are bred to be herbicide resistant, meaning that the plant is able to withstand what otherwise would be fatal applications of herbicide. However, much like antibiotic resistance, over time, herbicide resistance increased and the GE industry was forced to use a greater quantity of herbicides, not less, as is often claimed by the opposition, or they were forced to use more powerful herbicides. There are many news stories discussing the harms caused by glyphosate and other pesticides and herbicides favored by the GE industry. I will not get into the details of those stories here, but suffice to say, the coalition that I represent would prefer to see Oregon embrace more regenerative methods of agriculture that take human, animal, and environmental externalities into account.

In addition to increased herbicide use, one of the most concerning aspects of GE crops is transgenic contamination—the unintended, undesired presence of transgenic material in organic or traditional crops, as well as wild plants. Transgenic contamination happens through, among other means, wind- or insect-mediated cross pollination, seed mixing, faulty or negligent containment, and weather events, like floods. Even if GE crops are grown in a responsible way, seed or pollen may still escape and contaminate—sometimes irrevocably—a non-GE crop. This is especially important for organic crops, as there is zero tolerance for GE traits in organic products. Governor Kate Brown spoke earlier this session on the importance of championing and growing Oregon's organic sector, and protecting organic farmers from GE contamination is paramount to these efforts.

The opposition has pointed out that pollen can flow both ways—from GE to organic and organic to GE.[1] The difference is that GE contamination can be irreparable, because once it occurs, it becomes difficult or impossible to contain, resulting in a fundamental loss of choice for farmers and consumers. *See*, e.g., *Geertson Seed Farms*, 2007 WL 518624, at *9 ("For those farmers who choose to grow non-genetically engineered alfalfa, the possibility that their crops will be infected with the engineered gene is tantamount to the elimination of all alfalfa; they cannot grow their chosen crop."); *Ctr. for Food Safety v. Vilsack*, No. C 08-00484 JSW, 2009 WL 3047227, at *8 (N.D. Cal. Sept. 21, 2009). Unlike chemical pollution that dissipates over time, transgenic contamination is a living form of biological pollution that can instead spread over time and space. *Geertson Seed Farms*, 2007 WL 518624, at *5 ("Once the gene transmission occurs and a farmer's seed crop is contaminated with the Roundup Ready gene, there is no way for the farmer to remove the gene from the crop or control its further spread."). And once contamination occurs, evidence shows this contamination can persist for many years.[2]

Non-GE crop cross pollination can occur and cause a loss of crop purity, which can be especially problematic for seed growers, but it is not the same scale of damage as potentially permanent, transgenic contamination. All farmers face crosspollination concerns, but the non-GE and organic farmer has far more to lose. The opposition regularly mentions that all cross contamination conflicts can be managed through "farmer to farmer" co-existence. However, if that were the case, we would not be here today. If both sides suffer cross contamination harms, albeit uneven harms, then expanding ODA's authority to regulate GE and other cross contamination concerns would be a solution that should be welcomed by both sides.

HB 2882-2, with the removal of Section (3), is an incremental first step to addressing these concerns and I urge the committee to support this legislation.

Most sincerely,

Amy Wong
amy@ourfamilyfarms.org
www.ourfamilyfarms.org
805 455 4200

Cultivate Oregon
www.cultivateoregon.org

---

[1] Loew, Tracy. "Oregon legislature may let farmers sue for contamination from genetically engineered crops." Statesman Journal, May 7, 2019 https://www.statesmanjournal.com/story/news/2019/05/07/oregon-farmers-may-be-able-sue-harm-genetically-engineered-crops-gmo/ l129956001/?fbclid=IwAR01UzvFlVs-TFAGu-IpT7ie0SXANx3N-Lp6rcf5aQUNGuHiQGu1P6dlsIw

[2] G. Squire et al., *The Potential for Oilseed Rape Feral (Volunteer) Weeds to Cause Impurities in Later Oilseed Rape Crops,* Dep't for Env't, Food and Rural Affairs (August 2003) (documenting canola contamination lasting 16 years).