

development

private-public partnerships help advance wheat industry

as the importance of choosing certified wheat seed continues to increase, the return gained through public-private partnerships (PPPs) is also on the rise. The enactment of a federal law known as the Bayh-Dole Act, prompted land grant universities and educational institutions who

received federal funds for research to actively promote and commercialize the inventions that resulted from the research. The purpose was to recoup the federal taxpayer's investment into scientific research. Today many people refer to that payment as a royalty.

fyi

{ For your information }

Farmers Yield Initiative is a coalition of public and private partners with the common goal of protecting the public and the grain industry by supporting plant variety improvement through research, education, certification, and PVP enforcement for your benefit.

story continued from cover

Many universities have clear processes in place to commercialize, or bring to market, the inventions. One way for this to happen is for the university to form a partnership with private business. Today there are thousands of private-public partnerships to commercialize the technology developed by university scientists. Overall, the policy was designed to help fund research.

As the name implies, the private-public partnership allows

+ Work to obtain enough certified seed to meet the market demand
+ Bring to market new technologies
An example of such a partnership is Texas A&M University licensing the TAM wheat varieties to commercialize, such as AgriPro Wheat, Watley Seed Company, and others. For Texas A&M, their private-public partnerships began in early 2000. It was intended to protect the financial stability of the research program to ensure future varieties for the marketplace. As university

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both the public and private sector to work together and bring new science to the marketplace faster and more efficiently.

Concerning the wheat industry, such arrangements have historically meant partnerships between certified seed growers and universities across the country. The advantages are:

- + Increased marketability of the variety of seeds available
- + Stimulate education
- + Secure Intellectual Property rights for the universities

systems continue to develop new varieties, those producers who are willing to pay royalties are part of the solution to tomorrow's seedstock.

With the establishment of these types of licensing arrangements, producers are able to have a broader choice of varieties. The people who pay royalties will know that the University is investing a portion of that royalty back into tomorrow's wheat varieties. **fyi**



productivity

production in the Pacific Northwest



Having the highest percentages of Certified Wheat Seed planted in the nation, the Pacific Northwest has become a hot bed of private and public plant breeding programs. A large majority of the varieties now planted in the PNW have Plant Variety Protection and are licensed to specific dealers.

The following steps will help you better understand the certification process and the associated benefits, whether you are a certified seed producer or a certified seed purchaser.

- + The production of seed that meets certified standards begins with the selection of land to produce the crop. The land history provides information necessary to eliminate volunteer of another variety within the crop being produced.
- + Isolation of the seed crop from other similar crops in the area.
- + The next step in the certification process is to control weeds and maintain isolations from other potential contaminates and crops.
- + There are defined field standards within each state certification agency which must be met for each particular crop. These not only include such items as isolations, weeds, but also other crops, potential off types, and specifically wild oats.

This entire process of paperwork and field work comes together at the time of field inspection by a certification agency field inspector. Once the field turns color, usually 1 to 2 weeks before harvest, the field inspector will physically walk the field and inspect for the items that have been previously noted (isolation, crop history, weeds and weed control, off type plants and other crops that may be in the field). Once the field has been inspected and passed by the inspector the crop can then be harvested and taken to the warehouse for seed conditioning.

During the conditioning process a representative sample of the lot will be collected and sent to an approved seed lab for analysis. In each state there are seed standards which must be met by the sample according to which class the crop is to be certified under. If the crop meets these minimum field standards and the minimum seed standards it will be accepted for final certification and tags may be issued.

This entire process exists to assure that the seed purchaser is receiving weed free, high germinating seed that is genetically pure. Each state may have somewhat different specific rules but the overall process is very similar in each state. **fyi**



yield

better inputs : better odds of success

Research and development by breeders have resulted in improved varieties, which include traits that are appealing. Some of these traits include disease resistance, higher yield, and better baking qualities.

Certified seed serves as the basis of identity, value and certainty among farmers and end-users. When certified seed is planted, there is no question as to what variety of product will be produced. The value of certified seed is greater to you, as a farmer, and to those who ultimately consume the product.

Certain purchasers are in the market for specific varieties, and when you can demonstrate that you have used certified seed, you can glean premiums from those buyers. End-users need to be confident that they are getting what they pay for, and certified seed use assures that they get the class of crop they expect. Certified seed use can increase your marketing power when you can produce what buyers want and require.

Research and development by breeders have resulted in improved varieties, which include traits that are appealing. Some of these traits include disease resistance, higher yield, and probably most importantly, better baking qualities. Seed developers focus with the end user in mind so that when the product is finally consumed, it will contain higher proteins, will be healthier for the consumer, and will provide more consistency in the baking process.

When newer varieties of certified seed are developed and marketed, you not only get the newest variety, but you get the best of that variety when you purchase certified seed. The only way to reliably access the traits that you need and require is to utilize certified seed. **fyi**

Protected varieties lexicon

A helpful listing of federally protected seed and provider information. Please use this resource to protect yourself and the grain industry as a whole.

AGSECO varieties:

Protection TAM 113

Colo State varieties:

Akron
Jules
Prowers
Yuma

CWRF varieties:

Above
Ankor
Avalanche
Bill Brown
Bond CL
Denali
Halt
Hatcher
Prairie Red
Prowers
Prowers 99
Ripper
Snowmass
Thunder CL
Yumar

K-State varieties:

2137
2145
2174
Arlin
Betty
Heyne
Ike
Karl 92
Lakin
Stanton
Tiger
Trego

KSURF varieties:

Danby
Everest
Fuller
Jagger
Overley
RonL

Limagrain varieties:

Albany
Banton
Hat Trick

Nebraska varieties:

Alliance
Arapahoe
Goodstreak
Husker Genetics Brand McGill (NE01481)
Husker Genetics Brand Overland (NE01643)
Husker Genetics Brand Ribodoux (NI04421)
Husker Genetics Brand Settler CL
Mace
Millennium
NE422T (triticale)
Wahoo

Montana State Univ., PVPA title V varieties:

Bearpaw
Choteau
Decade
Duclair
Genou
Hockett
Judee
Yellowstone
Vida

Malt Barley:

Hockett

NDSU varieties:

Alkabo
Barlow
Dapps
Divide
Faller
Glenn
Grenora
Howard
Mott

ND901CL Plus
Prosper
Steele ND
Tioga
Velva

Barley:
Pinnacle
Rawson
Stellar ND

Flax:
Carter

Oats:
Beach
Hi-Fi
Newburg
Souris
Stark
Rockford

Soybeans:
Ashtabula
Cavalier
Jim
ND1005T
ND11005
Prosoy
Sheyenne
Traill

Edible Beans:
Avalanche
Eclipse
Lariat
ND 307
Pembina
Stampede
Walsh

OK Genetics varieties:

Billings
Centerfield
Duster
Garrison
Guymon
OK Bullet
Okfield
Pete
Ruby Lee

OSU varieties:

Deliver
Endurance
ORCF 101
ORCF 102
ORCF 103
Norwest 553

SDSU varieties:

Alice
Brick
Briggs
Colt
Darrell
Expedition
Forge
Granger
Ingot
Lyman
Oxen
Russ
Select
Tandem
Traverse
Walworth
Wendy

Oats:
Shelby 427
Streaker
Stallion

Syngenta varieties:

AgriPro Paladin
Alpine
AP604 CL
AP401 CL
AP503 CL2
AP603 CL
AP700 CL
AP Badger
AP Legacy
Arcadia
Art
Aspen
Benton
Beretta
Branson
Brennan
Bullseye
Cabernet
CJ
COKER 9152
COKER 9184
COKER 9295
COKER 9312
COKER 9375
COKER 9436
COKER 9474
COKER 9511
COKER 9553
COKER 9663
COKER 9700
COKER 9803
COKER 9804
Cooper
Coronado
Crawford

Cutter
Doans
Dumas
Fannin
Freyr
Hawken
Jackpot
Jagalene
Jenna
Kelby
Knudson
Kuntz
Legion
Longhorn
Magnolia
Malbec
Mason
Natchez
Neosho
Norpro
NuDakota
NuFrontier
NuGrain
NuHills
Oakes
Ogallala
Palomino
Panola
Platte
Postrock
Salute
SY605 CL
SY 9978
SY Gold
SY Harrison
SY Soren
SY Tyra
SY Wolf
TAM 111
TAM 203
TAM 401
TAMCALE 5019
TAMCALE 6331
Tamsoft 700
Thunderbolt
TriCal 102
TriCal 103BB
TriCal 2700
TriCal 336
TriCal 718
TriCal Merlin
TriMark 336
Triticale
W1062
W1104
W1377
W1566
Whetstone

Texas A&M varieties:

Dallas (oats)
Lockett
Sturdy 2K
Tambar 501 (barley)
TAM 113
TAM 202
TAM 203
TAM 302
TAM 304
TAMO 397
TAMO 405
TAMO 406
TAMO 606

Univ. of Minnesota varieties:

Cromwell
Ada
HJ98
Oklee
RB07
Sabin
Tom
Ulen

Spring barley:

Lacey

Application pending:

Rasmusson

UNL varieties:

Alliance
Arapahoe
Husker Genetics Brand McGill (NE01481)
Husker Genetics Brand Overland (NE01643)
Husker Genetics Brand Ribodoux (NI04421)
Husker Genetics Brand Settler CL
Mace

Watley Seed varieties:

TAM 112

Washington State University varieties:

Wheat:
Otto
Glee
Barley:
Elise

protect

plant variety protection act

What does it mean?

The Plant Variety Protection Act, first signed into law in 1970 and amended in 1994, provides patent-like rights to those contributing to the development of new varieties of plants. The benefits are to encourage improvement in plant breeding by encouraging continued investment into tomorrow's wheat varieties. Whoever develops the new variety owns the legal rights to distributing the variety in the marketplace, known as PVP-Protected seed.

Overall, the idea is to encourage private breeders or public universities to continue funding research. With this law, the PVP Certificate owner may charge others who plant the seed a reasonable amount of money called a royalty. With this royalty fee, the owner is allowed to partially recover the early costs of research.

If a person later uses the seed without paying the proper royalty, then the owner of the intellectual property rights may bring a civil lawsuit to put a stop to continued use in what is known as an injunction. Also, the owner may recover damages from an infringer.

Some PVP-Protected varieties also may only be sold as a class of certified seed when the owner claims a Title V protection. **fyi**

Title V Plant Variety Protection Benefits U.S. Agriculture and You

- + Encourages development of resourceful wheat varieties.
- + Ensures better agronomic wheat varieties for producers.
- + Provides genetically pure varieties to the producer through the use of certified seed.
- + Ensures ongoing wheat variety development by public and private plant breeders.
- + Grants developers patent-like protection from the sale of protected varieties.
- + Promotes agriculture progress in the public interest.

Information on Certified Wheat Seed

- + Most varieties are to be sold by variety name and only as a class of certified seed.
- + Many varieties are the culmination of years of research and testing to provide the best possible combination of yield, disease resistance, and grain quality.
- + Certified Seed fields are first field inspected and then lab tested to meet state seed certification standards, so they're more reliable than brown-bagged seed sold from unreliable sources.
- + Buying certified seed from a licensed dealer is the best choice because the producer will have the highest quality seed and will remain in compliance with the federal and state seed laws.

Tip Line Enforcement Tool

The purpose of the Farmers' Yield Initiative is to educate the public and producers about the need for more scientific research during a time of federal and state funding cuts. Congress designed the PVP and other federal laws to encourage both public institutions and private companies to invest in research and recoup that investment through royalties.

States have state seed certification processes to ensure only the highest quality seed is distributed to producers. Certified seed is a strong and reliable indicator of high quality.

The overwhelming majority of all new seed varieties are federally protected and can only be sold as a class of certified seed.

While many producers respect the laws, there are some who seek to gain an unfair advantage over other producers by working outside of the legal system. One way to level the playing field is to anonymously report those who seek to benefit from new varieties without contributing to the substantial research investments that make them possible.

Please consider submitting a strictly confidential tip to help put a stop to illegal seed trade. You need not identify yourself during the phone call. The caller can remain anonymous, and it is toll-free:

1-877-482-5907.

legal

INFRINGEMENT + CONSEQUENCES

despite the efforts by the private and public sector to educate producers as to the risk of illegal seed sales, some producers and seed cleaners continue forward in marketing grain as seed without the proper licenses or authority. The following are some lawsuits and settlements that followed the diligent investigation:

Watley Seed Company v. Bronco Seed Company, et al., N.D. Tex. Case No. 1:10CV-271-C – Secured Consent Judgments and settlement agreements for PVP infringement claims totaling \$616,000 against 17 Texas defendants engaged in the sale, purchase, or conditioning of proprietary TAM 112 hard red winter wheat seed. The case began against two producers and a seed conditioner, but in the course of discovery it was determined the seed conditioner facilitated a far larger network of unauthorized activity in a local community.

Syngenta Seeds, Inc. v. Elmore, et al., N.D. Tex. Case No. 2:11-cv-00189 – Obtained settlement of PVP infringement case against a Texas defendant involved in unauthorized purchases, uses, and/or sales of plaintiff's federally protected wheat varieties. Total settlement was for \$35,000.

Syngenta Seeds, Inc. and Garst Seed Co. v. Hartwell, et al., N.D. Tex. Case No. 2:10CV-219 - Obtained consent judgments and settlements of PVP infringement claims worth \$200,000 against Texas defendants, including a local seed conditioner.

Kansas Wheat Alliance and Colorado Wheat Research Foundation v. Scott Hooker, D. Kan. Case No. 12-cv-2190 - Obtained consent judgment of PVP infringement against Kansas seedcleaner for \$250,000 for unauthorized seed conditioning and sales.

BASF v. Miller – Resolved patent infringement claim against an Oklahoma defendant with settlement in the amount of \$75,000.

UNL Technology Development Corp. and the Board of Regents of the University of Nebraska v. Voichahoske, Chlopek, and Community Feed and Seed, et al., Neb. Case No. 4:11-CV-03147 – Obtained consent judgment against PVP infringing defendant. Total settlement was for \$80,000.

North Dakota State University Research Foundation v. Maus – Obtained settlement via Mutual Release Agreement in PVP infringement case concerning proprietary Alsen variety wheat seed. Total settlement was for \$17,500.

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