



News

South Dakota State University

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South Dakota State University enforces PVP rights

BROOKINGS, S.D. — The South Dakota Board of Regents, as the governing body for South Dakota State University and the South Dakota Agricultural Experiment Station, has instituted five lawsuits in federal court to enforce laws governing wheat varieties using the Plant Variety Protection Act.

The lawsuits, filed today in federal court in Sioux Falls, focus on the spring wheat varieties Traverse and Briggs that have been developed by nationally recognized wheat researchers at South Dakota State University and are owned by SDSU. This federally protected seed can only be sold legally as a class of certified seed. The lawsuits allege that five particular producers knowingly sold or offered the seed for sale without legal authority, without proper seed certification or without legitimate seed dealer licenses.

The lawsuits have been filed in order to protect producers in South Dakota and in the Upper Midwest who act in accordance with the Plant Variety Protection Act, according to Kevin Kephart, vice president for research at South Dakota State University.

“Our principal goal is to support farmers who rely on the continued development of better wheat varieties for their farming success,” Kephart said.

“It is in the long-term best interest of the entire wheat industry to respect the existing laws and regulations.”

The action taken by the Board of Regents is part of a much larger industry-wide PVP educational and enforcement effort that includes other notable public, taxpayer-funded research universities such as Kansas State University, Colorado State University and Oklahoma State University. These universities have won cases against seed violators in federal courts. Recently in Kansas, a producer accused of infringing a variety developed by Kansas State agreed to a \$150,000 judgment.

The PVP Act provides legal intellectual property protection to developers of new varieties of plants that are either sexually propagated by seed or asexually propagated by cuttings or tubers.

Bristol area producer Leo Warrington said the alleged behavior hurts all wheat growers in the region because it withholds money legally designated to fund wheat development work. Warrington is owner of Warrington Seed and also served on the board of directors for SDSU-based South Dakota Foundation Seed from 2002 to 2007, ending as vice chairman. Warrington Seed has grown public wheat varieties and currently produces seed for AgriPro and Westbred.

“We need more money going into wheat research. Currently, wheat has been falling behind other crops,” Warrington said. “When farmers do the brown-bagging — illegally selling PVP-protected seed — they take that money away from research.”

Wheat varieties are considered intellectual property. The South Dakota Crop Improvement Association, founded in 1925, cooperates with SDSU to use that intellectual property on the public’s behalf by introducing and distributing seeds and propagating materials of improved crop varieties.

South Dakota State University was among the early supporters of an educational cooperative known as the Farmers Yield Initiative, a coalition of public and private wheat research organizations designed to support research, education and seed certification. Through a large-scale educational campaign, which included direct-mail brochures to more than 100,000 wheat producers, the developers of improved wheat varieties hope to inform producers of the value that seed certification and research investment contribute to the agricultural community. As part of that same message, the producers received information of the guidelines of the PVP.

Founded in 1881, South Dakota State University is the state’s Morrill Act, land grant institution as well as its largest, most comprehensive school of higher

education. SDSU confers degrees from seven different colleges representing more than 200 majors, minors and options. The institution also offers 23 master's degree programs and 12 Ph.D. programs.

The work of the university is carried out on a residential campus in Brookings, at sites in Sioux Falls, Pierre and Rapid City, and through Cooperative Extension offices and Agricultural Experiment Stations across the state.

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Photo: Kevin Kephart