

## Judge: Dig up bio-beet seedlings

*Extent of ruling's impact on 2012 sugar beet crop unclear*

By **WES SANDER**  
Capital Press

Sugar beet industry officials say they don't know how badly a federal judge's decision regarding Roundup Ready seed

stock could hurt the 2012 beet crop.

Judge Jeffrey White on Nov. 30 ordered that the current rootstock for producing Roundup Ready sugar beet seeds be removed from the ground. Currently in nurseries, the rootstock — or stecklings — would have been replanted to eventually produce seed containing the Roundup Ready gene devel-

oped by Monsanto Co. That seed would produce the 2012 sugar beet crop.

USDA issued permits to four seed companies to plant the stecklings in early September. The permits came three weeks after White revoked the



Sugar beets

federal deregulation of beet seeds with Monsanto Co.'s Roundup Ready genes, pending a new environmental study.

The Center for Food Safety, Organic Seed Alliance, the Sierra Club and High Mowing Organic Seeds, plaintiffs in the original court challenge, sued to revoke the permits, saying they defy the deregulation ruling. The plaintiffs asked White

for an injunction to uproot the stecklings before the case progressed.

White will decide in the next few days who will be responsible for ensuring that the stecklings are uprooted.

At press time, defense attorneys were preparing to ask the U.S. Ninth Circuit Court of Appeals for a stay that would allow time for an appeal. But it

remains to be seen whether the Ninth Circuit will address the request before White's ruling takes effect on Dec. 7, despite the case's urgency and unprecedented nature.

Nearly 95 percent of domestic sugar beet growers use seeds with Roundup Ready traits, and their beets account for half the

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### This week

#### Special sections

■ **How prices are tracked, developments in biotech animals, the uptick in the goat and sheep markets, an update on the new animal identification system and efforts to rescue abandoned horses are among the stories you'll see in the Livestock and Horses special reports in this week's Capital Press.** **Inside today**

#### California



**A nine-year study of California's surface waters has found that urban and agricultural areas are fouling waterways in roughly equal measure. Water toxicity is mostly caused by pesticides, which are washing into rivers and streams from cities and suburban developments as well as farms, says the report by university researchers.** **Page 9**

#### Idaho



**Seneca Foods plans a \$17 million expansion of its frozen vegetable processing operations in Buhl. Idaho Housing and Finance Association officials said the project will enable the company to eliminate its canning operations and focus entirely on frozen production.** **Page 10**

#### Oregon

■ **The Oregon Farm Bureau is concerned that the Oregon Department of Environmental Quality may be attempting to govern agricultural practices through water quality regulation. The concern stems from proposals by DEQ to establish more stringent water quality standards and the authority to ask farmers to change some practices to help meet the standards.** **Page 11**

#### Washington



**Dan Bernardo, dean of WSU's ag college, said he is "gravely concerned" about funding cuts for the university and research and extension programs. The college and WSU Extension face reductions of about \$2 million in the permanent budget and \$3 in one-time funds.** **Page 12**

#### Profit Center

■ **To be certified organic, dairies need to manage heifers organically from before birth, organic watchdog Cornucopia says. Singling out Natural Prairie Dairy Farms in Channing, Texas, the complaint asks the USDA to halt the practice of bringing conventionally raised heifers — young females that have not yet calved — onto organic dairies.** **Page 13**

# Foresters hold off sudden oak death

*Loss of federal aid may foil state's fight to contain destructive timber, nursery disease*

By **MITCH LIES**  
Capital Press

BROOKINGS, Ore. — In 2001, U.S. Forest Service plant pathologist Ellen Goheen took to the air to see if sudden oak death was in Oregon.

The disease, which in two years can kill an otherwise healthy oak tree, earlier that year was identified as the causal agent killing huge swaths of oak trees in northern California.

The leading edge of the infestation was more than 100 miles from the Oregon-California border, but Goheen thought it possible that sudden oak death had entered Curry County.

Moments after starting her aerial survey, Goheen's suspicions were realized.

"The 'oh, shoot' factor was pretty high," she said.

Her discovery set off what has become a decade-long, \$10 million battle with the fungal disease that threatens much of the West's timber and nursery industries.

Scientists originally hoped to eradicate it from Oregon's forests.

"Our vision in 2001 was we'd do this for three years and be done," Oregon Department of Forestry plant pathologist Alan Kanaskie said.

That plan has long since been abandoned.

Today, federal, state and commercial foresters accept that sudden oak death is a fixture in the

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Mitch Lies/Capital Press

Oregon Department of Forestry plant pathologist Alan Kanaskie said foresters originally thought they could eradicate sudden oak death from Oregon's forests in three years. Nine years later, they still are battling the fungal disease. The hill behind Kanaskie is Oregon's first known infection site.



Mitch Lies/Capital Press

These tanoak leaves show symptoms of sudden oak death. The disease can destroy an otherwise healthy oak tree in two years.



Mitch Lies/Capital Press

When foresters find sudden oak death, they remove all host plants within a 300-foot radius of the infected tree and burn the material to prevent the disease from spreading. This infection site is near Brookings, Ore.

## Investigators baffled as wheat fields wither

*Mysterious yellowing affects 40,000 acres of Eastern Oregon; new problem feared*

By **MATTHEW WEAVER**  
Capital Press

The Oregon Department of Agriculture and Oregon State University are investigating the yellowing of upward of 40,000 acres of wheat in Umatilla and Morrow counties.

So far, the cause is a mystery, and researchers do not know if the problems in the two counties are related.

In early November, Umatilla County growers noticed wheat fields turning yellow and dying, OSU Extension soil scientist Don Wysocki said.

Sixteen fields from three to 10 miles northwest of Pendleton were affected, Wysocki said. They are "more or less but not completely contiguous," he said. Not every

field in the area was affected.

The area was predominately planted to soft white Clearfield variety ORCF-102, but other varieties were also affected, Wysocki said.

"There's probably more than one thing going on in these particular fields, like in any field," he said.

OSU Morrow County Extension associate professor Larry Lutchter said 30,000 to 40,000 acres of wheat in his county have plants with yellow or purple tips. The discoloration spreads inward and downward on the leaf. In some cases, plants are completely desiccated and will not recover.

The symptoms have been observed in many fields in the county, Lutchter said, but do not appear tied to any particular location.

"Most of the symptoms in Morrow County are unlike anything I have ever seen," Lutchter said.

Lutchter said he doesn't believe the problem will spread

### Wheat mystery

Oregon State University and Oregon Department of Agriculture researchers are trying to determine the cause of yellowing in upwards of 40,000 acres of wheat in Umatilla and Morrow counties.



Alan Kanaga/Capital Press

to other fields, but he can't be certain.

"This does appear to be a new problem — a problem that no one seems to have experience with," he said.

Neither Lutchter nor Wysocki were sure if the circumstances in the two counties

were connected.

"The big question on everyone's mind right now is, how will the crop look this spring and will replanting be necessary?" Lutchter said.

Oregon Department of Agriculture Special Assistant to the Director Brent Searle

said the department was contacted by farmers in early November.

The department sampled and tested the fields, but final results are not yet in.

Preliminary samples showed some root pathogen issues, but Searle said the investigation is still in the information-gathering stage.

The department and university sent surveys to growers asking about field history, planting dates, chemical use and where seed was purchased. OSU also examined nearby fallow land to see if it was similarly impacted.

The information may help identify common factors or patterns, Searle and Wysocki said.

In Umatilla County, the patterns are oriented across the fields, with "shadow effects" suggesting protection in areas behind slopes or fence rows, Wysocki said.

But the patterns of the die-off aren't typical of anything

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# Containment costs millions

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forests of Oregon's southern-most coastal county.

Their management strategy today involves keeping the disease from spreading outside a quarantine area that has grown from 9 square miles in 2001 to 162 square miles today.

Sudden oak death, caused by the *Phytophthora ramorum* fungus, spreads when its spores are carried by wind or splashed by rain from an infected oak tree to another susceptible tree or bush.

A broad range of hosts — more than 100 species, including many common to Oregon forests, such as Douglas-fir — allows it to spread rapidly and increases the complexity of managing it.

The current management strategy involves removing all host plants within a 300-foot radius of an infected tree.

In Oregon, scientists typically find about 70 new infected sites each year — all within the quarantine area.

Host plants within the 300-foot radius are felled and burned on site. Foresters also treat stumps of infected trees with herbicides to prevent sprouting, and sweep and burn debris from the forest floor of treatment sites.

The cost — running about \$2 million a year in recent years — is high, but, according to an Oregon State University study, better than the alternatives.

In the study, OSU researchers gauged the costs of three options: One involved doing nothing, or letting the disease spread on its own accord. A second involved containing the disease, essentially what the state is doing today. A third involved eradicating it.

According to the study, the first option — taking no action — would cost the state between \$150 million and \$1.2 billion over 20 years due to expanding quarantines and treatment costs to ship products out of quarantine areas.

Containing the disease at a cost of \$2 million a year would save the state \$122 million to \$1.2 billion in losses over the 20 year period, according to the study.

Eradicating the disease would cost \$7 million to \$10



Source: Oregon Dept. of Agriculture, Oregon Dept. of Forestry. Alan Kenaga/Capital Press

million a year for five years, and save the state between \$119 million and \$1.2 billion over 20 years.

The costs and savings in the study vary widely because of market uncertainties, Oregon Department of Agriculture Plant Division Administrator Dan Hilburn said.

"One thing these numbers tell you is there is a lot of uncertainty about what would happen in markets," he said.

Also, Hilburn said, there is no guarantee the state could eradicate the disease even if it tried.

In California the disease has largely been left to spread on its own accord in suburban and forest settings. As a result, sudden oak death has killed hundreds of thousands of oak trees in 14 coastal counties, from Humboldt County in the north to Monterey County in the south.

Scientists can only speculate how the disease moved from California to Oregon. Despite considerable scouting, they have not found the disease in California's northern-most coastal county, Del Norte, and have been unable to connect it geographically with Curry County.

One theory is infected tissue entered Oregon on droppings from migratory birds.

Regardless of how it got here, state and federal officials are comfortable with their current containment strategy.

As the OSU study suggests, letting sudden oak death go unchecked ultimately will drive up logging costs in Oregon forests.

South Coast Lumber, a Brookings lumber company, owns about 30,000 acres within the Oregon quarantine zone. The company's timber manager, Virgil Frazier, said the quarantine costs South Coast between 10 and 40 percent of the value of timber in the quarantine zone due to higher harvest costs, direct loss of timber value and regulatory costs associated with trying to move uninfected product out of the zone.

Homeowners with infected trees in the quarantine zone are required to either remove the trees on their own or let the state do it.

The disease also costs the Oregon nursery industry hundreds of thousands of dollars annually in increased management costs. Nurseries that test positive for the disease lose

significantly.

"Any time a nursery fails (a test), a lot of material gets destroyed," Hilburn said. "And there are other costs that are hard to quantify."

"Inevitably, a lot of their customers are not happy," he said.

Ten nurseries tested positive this year under an ODA testing program that tested plants from more than 600 nurseries.

Under Oregon's nursery program, all nurseries with plants that can host sudden oak death must be certified as disease free before they can ship those plants out of state.

Sudden oak death first was discovered in an Oregon nursery in 2003. It has been found in several dozen nurseries since.

The ODA currently funds about a third of the state's \$1.25 million sudden oak death nursery program. Federal funds cover the remainder of the costs.

Here again, the money appears well spent, according to the OSU study, which found that taking no action in nurseries would have cost the industry \$65 million to \$650 million in losses over 20 years.

Conversely, a strategy involving containment — the current state strategy — saves the industry between \$37 million and \$624 million over 20 years.

State and federal scientists have patched together funding sources over the years to keep the forest and nursery sudden oak death containment programs in operation. But the funding sources are in danger of dissolving in coming months.

Hilburn has heard from officials within USDA Animal and Plant Health Inspection Service that several other plant health issues are expected to compete for federal nursery funds in the upcoming fiscal year. The federal stimulus money that is paying for much of the containment effort in Curry County forests will be depleted by this time next year, putting the future of that program in jeopardy as well.

"We can see far enough into the future that we can keep the programs going up until next fall," Hilburn said.

"After that, there is no obvious source of keeping programs going," Hilburn said. "Then it all gets very cloudy."

# Sugar beet seed stocks a closely guarded secret

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domestic sugar supply. No other biotech crop has faced a legal challenge after being so widely adopted as an industry standard.

But that's no guarantee of a prompt response from the Ninth Circuit, said Harry Zirlin, attorney for seed company Betaseed.

"Usually appeals courts don't bend over backwards to get something done on somebody else's schedule," he said.

Luther Markwart, executive vice president of the American Sugar Beet Growers Association, said it's difficult to say how the ruling will impact the 2012 sugar beet crop.

The exact quantity of both Roundup Ready and conventional beet seed stocks are a closely guarded secret, known only to the seed companies — and White.

"The only way you can draw any conclusions is to have a lot more information than anybody has collectively" right now, Markwart said. "Depending on availability, there may not be any seed for (growers) to buy" for the 2012 crop, Markwart said.

White's ruling would allow stecklings produced prior to Aug. 12 to be used.

Duane Grant, chairman of the grower cooperative Snake River Sugar Co. in Idaho, said the immediate challenge is to add up the protected steckling production.

"The ruling raises the possibility that there won't be sufficient seed supply for 2012," Grant said. "But we won't know that until we know how many of the stecklings were planted prior to the deadline."

Agriculture Secretary Tom Vilsack said Dec. 1 that it was important to recognize that the court had not ordered the destruction of the sugar beet stecklings, only their removal from the ground.

"We are currently engaged in discussions with the Justice Department about next steps," Vilsack said. "We recognize the significance of this to growers. It raises a larger set of questions generally for us to have a much better system than a single judge deciding if a farmer gets to farm or not to farm."

Plaintiffs have argued that the Roundup Ready beets endanger other vegetable crops, which could be contaminated with the biotech trait.

USDA said that the stecklings pose no threat because they don't flower, and because the permits require strict isolation distances. But White said that argument contradicts a key tenet he established earlier in the case: Under environmental law, one stage of a process cannot be separated from the whole.

That means any potential for cross-pollination and contamination occurring later in the crop cycle, once the stecklings become seed plants and eventually a beet crop, must bear on the steckling decision, White

# Prices rise after ruling

U.S. sugar prices closed about 3 percent higher Dec. 1 after a federal judge ruled the day before that genetically modified sugar beet stecklings must be dug up.

U.S. raw sugar prices for the November 2011 futures contract closed at 35.08 cents per pound. The January 2012 contract closed at 33.45 cents per pound.

"There was a pretty substantial movement higher during the day," said Frank Jenkins, president of the Jenkins Sugar Group.

"I think people are still curious to see if there will be some sort of appeal, but it's certainly not good news for the beet industry in the U.S.," he said.

Craig Ruffolo, a commodities analyst with McKeaney-Flavell in Oakland, Calif., noted that Judge Jeffrey White's ruling regarding seed stecklings has no bearing on whether farmers will be allowed to plant the Roundup Ready root crop next year. The USDA has released a plan that would allow growers to do just that.

White's ruling "has zero influence on the plantings that will happen next spring," Ruffolo said. "So as far as my outlook for 2011 is concerned, it hasn't changed it one bit."

— Dave Wilkins

said. Past evidence, he said, shows a likelihood of contamination happening somewhere in the process, despite USDA and the seed companies doing their best to prevent it.

"(T)here are examples of where such efforts were ineffective, either because the conditions were later determined to be insufficient or the conditions were not followed," White wrote. "These incidents are too numerous for this Court to declare confidently that these permits provide sufficient containment to protect the environment."

White also refused to temporarily stay his order, something USDA and the industry had requested in hopes of gaining time to appeal the ruling. But he did delay the injunction's start date by a week, anticipating that defendants would instead ask the Ninth Circuit for a stay.

The USDA is in the process of formulating rules that would regulate the planting and cultivation of Roundup Ready sugar beets next year. Seeds for that crop have already been harvested.

# Bizarre weather patterns may be culprit

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anyone has seen before, Searle said.

"The weather's been really weird this year and there was a tight planting window, and then temperature swings and rains and the grain jumped real fast in growth," he said. "It could be a whole combination, perfect storm kind of thing. We're just trying to sort it all out right now."

Most growers in Umatilla County were replanting their fields, Searle and Wysocki said.

Replanted acres aren't expected to have a problem, Wysocki said, "but we can't rule that out."



Courtesy of Don Wysocki/OSU Columbia Basin Agricultural Research Center. Yellowing is apparent in a field of wheat in Umatilla County, Ore. Oregon State University Extension Soil Scientist Don Wysocki said this field was replanted several days after the photo was taken. The university and Oregon Department of Agriculture are investigating the cause of the problem, which affected an estimated 4,000 acres of wheat.

Coming up next week

## Capital Press

The West's Ag Weekly

**• Mateusz Perkowski looks at the Pacific Northwest Christmas tree industry.**

**• Dan Wheat reports that Pear Bureau Northwest and the Washington Apple Commission are trying to get fruit into Russia and Kazakhstan.**

**• Wes Sander talks to two California men who have leased a piece of land and plan to start ranching.**

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## In brief

### Conservation law restored

MODESTO, Calif. (AP) — A California appeals court has restored a Stanislaus County law that will require home builders to conserve as much agricultural land as they develop into subdivisions.

Three judges from the Fifth District Court of Appeal in Fresno overturned on Nov. 29 a ruling by a lower court judge who had declared the farmland preservation policy unconstitutional.

Presiding Judge Herbert Levy said in the panel's written opinion that removing acres from agriculture, the county's leading industry, has "a deleterious impact."

He says it is not unreasonable to expect developers who profit from the process to protect "this valuable resource."

The Building Industry Association of Central Califor-

nia sued to block the law after county supervisors approved it three years ago.

Executive vice president Steve Madison told The Modesto Bee he does not expect the group to appeal to the California Supreme Court.

### Arizona citrus weathers cold

MESA, Ariz. (AP) — A freeze warning across the Phoenix area on Nov. 30 was enough to send shivers through Mesa citrus growers.

The low-pressure cold front from the West Coast stopped short of damaging crops.

The cold front caused temperatures to drop to the low 30s and high 20s in some outlying areas.

A forecaster with the National Weather Service told the East Valley Tribune that Chandler and Gilbert each experienced low temperatures

of 27 degrees with Mesa dropping to a low of 30 degrees overnight Tuesday.

The low in east Mesa was 33 degrees. Citrus farmer Denise Burden said temperatures have to drop lower than 32 degrees for three to five hours before crop damage could happen.

### Freeze aids pecan harvest

LAS CRUCES, N.M. (AP) — Cold temperatures are helping Dona Ana County pecan growers with their harvest.

Such cold snaps prep nuts for the harvest by killing leaves and drying up husks around the pecan shell.

Pecan buyer and grower Phil Arnold told the Las Cruces Sun-News it usually takes orchards several days to dry out enough for harvesting to begin in earnest after cold weather.