

The Open Source Seed Initiative Reseeds

An ethical commons grows in gifts and bounds

Frank Morton

Readers who are unfamiliar with the OSSI story are encouraged to read last year's essay from the catalog or website. It describes the various approaches considered for creating an intentional commons for plant breeders who wish to share their work without fear that others will monopolize their contributions through patents or other intellectual property claims. The OSSI approach creates an ethical boundary through a public pledge that accompanies the exchange of these "open source seeds."

The Pledge: "You have the freedom to use these OSSI-Pledged seeds in any way you choose. In return, you pledge not to restrict others' use of these seeds or their derivatives by patents or other means, and to include this Pledge with any transfer of these seeds or their derivatives."



It's fair to say that the open source seed inspiration has landed on the fertile ground of need.

Judging from the response, which has come from around the world, this notion of a protected commons for seed breeders and innovators has rooted quickly with the contributions of 23 breeders thus far. The crop species are as diverse as the interests of their stewards and their locations. To date, nearly 300 varieties or breeding populations have been Pledged by public breeders at Universities and research facilities, independent breeders at small seed companies, farmers and gardeners, and the largest organic-only seed retailer in the world (!), High Mowing Seeds. Wild Garden has pledged all of our original breeding work including the new releases in this catalog, for a total of 132 entries. The workers at OSSI have been busy bringing the idea to the seed marketplace (seed company catalogs), and have signed up 22 seed company partners who will feature the open source seed concept, information, varieties, and Pledge in this year's catalogs. You can expect to see the OSSI logo in more places this year, including on seed racks and in articles. Carol Deppe, noted author on homestead breeding and resilient gardening (and member of the OSSI Board), has written a 4000 word article on OSSI for *Acres USA* (January '16 issue).

As noted last year, this initiative is a work in progress, a process under development largely in response to new insights and questions that arise. Interested readers should access the OSSI website to view the list of OSSI contributors, seed company partners, and frequently asked questions.

www.osseeds.org

One such issue relates to contracts between breeders, seed growers, and seed companies over matters of royalties, stock seed control, and seed production of OSSI-Pledged varieties. Does the OSSI Pledge forbid all contracts or agreements for OSSI-Pledged Varieties? No. OSSI recognizes the value and necessity of contractual agreements between all players in the seed trade that are necessary to actually bring new varieties to the public marketplace, and that support for breeders in the form of royalty agreements between breeders and seed companies is a legitimate use of contracts. So long as such restrictions are only between the contracting parties and do not restrict breeders or customers in the use of the seeds, OSSI accepts such contracts around Pledged varieties. OSSI has a strong interest in encouraging and rewarding the work of breeders, growers, and distributors of seed, so long as this doesn't restrict the future use or access to seed.

Another issue for seed sellers has to do with what constitutes “includ(ing) the Pledge with transfer of the seeds...” as regards the responsibilities of seed purveyors for labeling. Asking seed companies to redesign packets to accommodate the Pledge was seen as an unlikely starting point, so the Board has instead asked companies to include the Pledge somewhere in their catalogs and on their websites, along with related information and the OSSI logo designating Pledged varieties.

These ongoing adaptations to the realities of seed exchange and production, as well as the role of royalties and patronage in fostering plant breeders and supporting breeding projects, are healthy signs that open source seed continues to find a way ahead, though the ideal course is unknown. All of these policies comport well with the way Wild Garden has approached the same issues of seed propriety, royalties, and patronage.

Before and after our seeds were OSSI-Pledged, we hoped others would use them freely while maintaining some respect for the time and work we have invested in bringing them to bear. By respect, we meant recognition where this was appropriate, as when another commercial producer who knows of us grows and resells our varieties. Recognizing the source in this case is a sign of respect, and is all we wish for. In other cases, commercial producers have asked to reproduce our original varieties for resale, and have offered 10% royalties on sales in order to support our ongoing breeding endeavors. We are happy to accept these arrangements, and to develop ongoing business relationships with these firms to further our breeding goals.

It is completely understandable why breeders, their employers, or others for whom the current Plant Variety Protection (PVP) system is a profitable and efficient process would stand by that as a means to protect and profit from their work. It registers the traits of a variety such that others shouldn't be able to use utility patents to make claims on traits that are found in PVP varieties. Breeders and seed keepers that can't profit from PVP protection have no viable means to protect their genetics from predatory trait patenting. The Open Source Seed Initiative is the first attempt to afford this protection, largely by employing the twin miracles of light and transparency.

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