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Texas vineyard owners sue seed companies, alleging weedkiller has crippled their industry

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Leaf Press of White Rock Vineyard Tannat Leaf before the affects of dicamba

Photo courtesy attorneys

The owners and operators of 57 wine grape farms in Texas on Friday sued two large companies that they allege sold a faulty seed system and a volatile weedkiller that’s crippled vineyards, threatening the fate of many in the Panhandle, believed to be home to one of the nation’s largest wine industries.

The suit, filed in Jefferson County, alleges a drifting herbicide has damaged productive grape vines on dozens of farms since Monsanto and Germany-based BASF began marketing a dicamba-based seed systems for cotton and soybean. The High Plains vineyards account for 85 percent of grapes produced, sold or used by the state’s industry, lawyers representing the plaintiffs said.

Dicamba is used on crops to kill weeds, but can move off-target and damage nearby crops and vegetation not genetically modified to withstand it, according to the suit. The plaintiffs seek “at least \$560 million at trial,” per the suit, in damages and lost economic opportunity.

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In a statement, BASF officials said they disagreed with the allegations in the suit.

“We formulated our dicamba product to significantly reduce off-target movement and conducted extensive testing before receiving EPA approval to market Engenia herbicide in 2017,” the statement said. “In addition, because of BASF’s commitment to stewardship, we continue to provide training to applicators and emphasize the importance of following the label requirements for Engenia herbicide to achieve on-target applications.”

A spokesperson for Monsanto did not immediately respond to a request for comment.

“Many of these vineyards have taken 20 to 30 years to cultivate in an area where only cotton was grown,” Ted Liggett, a lawyer with a Lubbock firm representing the plaintiffs, said in a statement. “They gave new purpose to the land, delivered a far more lucrative crop and created an industry that’s recognized for its excellence around the world. Now all that grit, hard work and community pride is at risk of being lost, sacrificed to Monsanto’s reckless pursuit of corporate profit.”

Dicamba can damage neighboring, unintended targets when it is applied to a crop, evaporates and moves into the air, traveling before settling on another plant; by physically drifting; and when it is sprayed during a temperature inversion and hangs in a mass of cool air above soil before falling once the air mass warms, potentially moving miles away, according to the suit.

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Plaintiffs alleged Monsanto’s release of the Xtend system, a crop system of genetically modified seeds that are resistant to dicamba, spurred an exponential increase in use of the herbicide over the last six years.

“Monsanto developed the system to address the problem of herbicide resistant weeds (e.g., pigweed) that have afflicted cotton and soybean crops,” the lawsuit reads. “This is despite the fact that the use of over-the-top dicamba application (a necessary component of any herbicide-resistant seed system for cotton or soybeans) has never been encouraged in the past due to the herbicide’s volatility and susceptibility to secondary movement (post-application).”

Monsanto and BASF released a version of dicamba supposed to be less volatile by 2017, but reports of damages crops continued throughout the Midwest and South, according to the lawsuit.

Meanwhile, some growers felt forced to buy the Xtend system as a defense mechanism against their neighbors’ spraying. There was “no recourse” for growers of crops without a dicamba-resistant seed available, such as grapes, according to the suit.

“The cause of the destruction of plaintiffs’ crops and businesses is defendants’ willful and negligent release of their dicamba-based seed system on the market,” the suit reads. “Defendants methodically engaged in a coordinated, systematic plan to release their defective products onto the market, thereby ensuring that crops that were not dicamba tolerant would be destroyed.”

To individuals who grow grapes, the impact has appeared in shorter canes and tinier leaves unable to generate enough carbohydrates for the plants to perform their basic functions: Keep itself alive, preparing for the winter, producing the bud that will be fruit the following year and maturing fruit.

Reduced leaf area means less photosynthesis, which creates the carbohydrates. Even seemingly normal, tight crop sets struggle to mature grapes into their expected level of sugar, growers say.

“We just don’t have enough carbohydrate production,” said Andy Timmons, 53, who owns and operates vineyards in Brownfield and another in Lubbock. “You’re supposed to be running at 100 percent, you know. These vineyards are not running at that and so some fruit never, ever gets mature.”

Neal Newsom, who operates vineyards under the company name Cornelious Corporation, said among the most difficult aspects at the moment is the death loss. Over the years, vines have been beat up and reserves have been knocked down that he’s replacing vines “like crazy.”

When he plants new vines, they become twisted as soon as they get out of the top of the grow tube, which is about 2.5 feet, and then “they don’t have a chance.”

“This is my livelihood and it’s being squeezed out of me by no fault of my own,” he said. “This can’t go on. I’m going to be squished like a bug. Financially, this cannot continue for me. I don’t know how else to say it.”

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