

FINAL PROJECT REPORT

Project Title: 'WA 2' plant variety rights applications

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Cooperators: Clean Plant Network, Prosser; Tom Auvil, WTFRC

Other funding sources: None

Total Project Funding: Year 1: 9,150 Year 2: 10,650 Year 3: 3,440

Budget History:

Item	2011-2	2012-3	2013-4
Supplies	250	250	250
Travel	0	0	0
Miscellaneous	0	0	0
- Quarantine costs	8,000	0	0
- PVR application fees	900	10,400	3,190
Plot Fees	0	0	0
Total	9,150	10,650	3,440

OBJECTIVES

1. To establish certified virus tested (CVT) material of 'WA 2' in the Plant Variety Rights (PVR) process in selected territories as a prelude to applying for PVR in those territories, which is the only way to protect 'WA 2' outside the USA and control its possible release.
2. To apply for PVR for 'WA 2' in the EU and in the countries mentioned below, as is feasible, by project's end.

SIGNIFICANT FINDINGS

- The EU Community Plant Variety Rights application was completed and is ready for submission in spring 2014.
- Australian Plant Variety Rights application is in preparation and is planned for submission in early 2014 (trees due for release in 2015).
- NZ: wood was released from quarantine in March 2013, PVR application planned for March 2015.
- 'WA 2' is established in quarantine in South Africa and Chile.

RESULTS & DISCUSSION

WSU (as WSURF) has licensed agents within each of the territories noted above to oversee the quarantine process and PVR application for 'WA 2'.

Propagating wood from the Clean Plant Network in Prosser was distributed to the territories in winter 2011 as requested. Grafts failed in Australia so further propagating wood was sent winter 2012/13. Wood from Sunrise orchard was sent to the EU as requested in 2011 and 2012.

The application for PVR in the EU was submitted to our agent in spring 2013, but both parties (agent and WSU) decided to delay until 2014 to coordinate virus testing results with supply of the trees to the European CPVO for examination. PVR applications for Chile, South Africa, Australia and New Zealand are expected to be submitted in a timely manner to meet the relevant deadlines in each territory.

'WA 2' was released from quarantine in New Zealand in March 2013. Propagating wood is being bulked up for trialing.

EXECUTIVE SUMMARY

The Washington apple breeding program released ‘WA 2’ in 2009 for Phase 4 grower evaluation giving participating growers the ability, in the future, to convert their evaluation agreements to Phase 5 commercialization licenses as of January 1, 2011. ‘WA 2’ is protected in the USA by a plant patent (#PP21,710), but in order to control the variety beyond the territory of the USA, Plant Variety Rights (PVR) applications need to be filed in each territory deemed worthwhile, i.e., necessary to protect the commercial interests of WA growers. For most territories, there is a tight timeline regarding application for PVR. For example, on the Community (EU) Plant Variety Office’s website, it is stated that “A variety shall be deemed to be new (and therefore protectable), if, at the date of application...variety constituents or harvested material of the variety have not been sold or otherwise disposed of to others, by or with the consent of the breeder...for purposes of exploitation of the variety:

- (a) earlier than 1 year before the abovementioned date, within the territory of the Community;
- (b) earlier than 6 years (for trees) before the said date, outside the territory of the Community.”

This means that, as of the first date of sale of the apple cultivar in the U.S., you have a six-year window to apply for PVR (in most countries, or, in some cases, in groups of countries, such as in the EU) or forever lose the right to do so. Phase 4 invoices issued in early 2010 could be regarded as the first date of sale for ‘WA 2,’ which means that any applications for PVR must be submitted no later than early 2016. During that 6-year period, plant materials need to be imported into the country by an agent living in the country (pre-export tests/certificates are required, and requirements vary by country), get through the quarantine period (which is up to two years or more, and varies by country), and come out of quarantine and produce fruiting trees in order to complete the application for PVR protection. Within the timeframe of this project, we have established CVT material of ‘WA 2’ in the EU, South Africa, Australia, New Zealand and Chile using agents in each country and applied for PVR in the EU. Applications are being prepared in the other territories. Eventually, we expect to license ‘WA 2’ in the countries where protection is being sought with the goal of controlling release of the cultivar so as to mitigate competition with WA grower interests. Securing protection in a given country must be accompanied with licensing, not only for purposes of controlling the release of a cultivar, but also to comply with compulsory licensing laws within the countries where protection is obtained.

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