

Kent Whealy's Response Regarding Svalbard

On September 26, 2010 I gave a speech at The Land Institute entitled "Svalbard Doomsday Vault: Biopiracy by U.N. Treaty" knowing full well that I would be ruthlessly attacked. In response to the current feeding frenzy on Seed Savers' website, I can only say that I am truly amazed at all of the mud being thrown at me by the friends, employees, fundees and funders of Cary Fowler and/or Amy Goldman. Pat Mooney claims to be offended that "...Kent or any friend would think that I would be silent about threats to seeds because of old friendships or funding." Well, ETC Group's Communiqué in February 2008 (still on ETC's website) stated, "Later this year, ETC Group will release additional studies that examine the relationship between the Global Crop Diversity Trust and the International Seed Treaty." Nearly three years later, that still hasn't happened. Three pages into his diatribe, Pat finally admits, "...the head of one highly-regarded national gene bank told me last week that the deposit agreement for Svalbard states that the depositor must agree to make samples of all deposited seed available upon request – not from the vault – but from the original collections."

That was the main point of my speech! Two years ago (November 24, 2008) I tried to warn SSE's members about the true implications of Seed Savers newly announced relationship with Svalbard. I quoted Article 7 of the FAO Treaty, 'The Depositor agrees to make available from their own stocks samples of accessions of the deposited plant genetic resources' which goes on to state that the "original samples" (other seeds of those varieties stored in Heritage Farm's seed vaults) are also covered by the terms of the FAO Treaty, and that a 1.1% tax on "patents of derivatives" of the deposited varieties is how the FAO Treaty intends to generate funding for itself. Two years later, the truth about Svalbard has finally reached the mainstream media. Michael Hodges' interview with Cary Fowler in the October 12, 2010 issue of *Wired* magazine in the U.K. (wired.co.uk) confirms, "The samples remain at all times the property of the depositors, the only proviso being that the originals must be freely available to researchers and breeders under the terms of the International Treaty on Plant Genetic Resources."

Sifting through the mudslide on Seed Savers website also reveals a disturbing statement by SSE's Board regarding their "long-term strategy for SSE's collection." As stated in my speech, Svalbard is only concerned with approximately 9,000 varieties (out of nearly 26,000) that are "unique to SSE's collection" (the ones that USDA's GRIN-Global computer system determines are not in other government collections). The statement by SSE's Board confirms, "In some cases, SSE is duplicating the efforts of other seed banks.....The plan we generated, inspired by Dr. Visser's plan, makes it a priority to conserve and share the heirloom varieties provided by our members." (Cary Fowler and the Global Crop Diversity Trust have been sending around Dr. Bert Visser, director of the national genebank in the Netherlands, to prepare various seed collections for deposit into Svalbard.)

Why hasn't SSE's Board shared their plan with SSE's members? Because it would confirm that – by no longer maintaining varieties that also exist in other government collections – SSE's Board is abandoning their commitment to maintain SSE's entire seed collection. With that decision, SSE's members have just lost access to two-thirds of their own seed collection while all of the remaining "unique varieties" (mainly our members' family heirlooms) are gradually being placed under the control of the U.N.'s FAO Treaty. Strip out all of the "VIR" varieties (Vavilov Institute in Russia) and all "IPK" varieties (Gatersleben in the former eastern Germany) and there goes our members' access to 4,000 traditional varieties (from 30 Eastern countries and Cuba) collected mainly during 12 plant collecting expeditions from 1993 to 1997. I participated

in the planning and wrote SSE's nonprofit grants that funded each of those expeditions, so all of those traditional Eastern varieties are the nonprofit assets of SSE intended for the ongoing use of SSE's members. Likewise, stripping out all of the "PI" varieties obtained from USDA's Plant Introduction Stations will destroy access by SSE's members to every variety the USDA germplasm system has provided "freely" (if new seed and evaluative data were returned) over the years to Will Bonsall, Glenn Drown, the late Robert Lobitz and countless other SSE members. And right now the USDA is revising their own access guidelines, so those varieties may never be available to gardeners and farmers again.

And what about all of the varieties with the same names in both SSE's seed collection and the USDA collection (or other foreign collections)? Not maintaining those duplicates could destroy SSE members' access to many of the endangered commercial varieties rescued using the six editions of the *Garden Seed Inventory* (1984, 1988, 1992, 1995, 1999 and 2004). In the early 1980s, many of SSE's members were voicing alarm because their favorite varieties were being dropped from mail-order seed catalogs. Multinational agrichemical corporations went on a buying spree with the greatest losses occurring from 1984-1987, when 23.5% of the mail-order seed companies in the U.S. and Canada were bought out. (Thirty years later those same multinationals – Monsanto, DuPont/Pioneer, Bayer and Dow – are still intent on controlling food production worldwide and have now bought up half of the world's seed supply.) So, starting in 1981, I spent three full years compiling a computer inventory of every non-hybrid variety offered by every mail-order seed catalog in the U.S. and Canada. Revenue from the sale of each of those six editions was used to buy samples of the endangered varieties that each edition identified as about to be dropped. Over the years, hundreds of the best regionally-adapted garden varieties ever developed were systematically rescued and are now in SSE's seed collection.

All of the categories of seeds described above are the nonprofit assets of the Seed Savers Exchange, intended for continuing use by SSE's members, and those genetic resources have never been more desperately needed than right now to respond to climate change. The heirloom varieties donated by SSE's members and the endangered commercial varieties rescued using the six editions of the *Garden Seed Inventory* include the best garden varieties we will ever see. Unlike today's plant breeding, most of the varieties in SSE's seed collection were developed before the chemical era and grow well without the use of chemicals (plus have never been exposed to GMO contamination). Organic growers and the organic movement in the U.S. – home gardeners, CSA operators, organic farmers, restaurant suppliers and farmers' market growers – will actually be the greatest casualties of SSE's needless relationship with Svalbard.

The decision to not maintain SSE's entire seed collection is the direct result of Seed Savers involvement with Svalbard. SSE's mission, as a nonprofit organization, has been fundamentally changed! SSE's Board informs us that they have been advised that SSE is "duplicating the efforts of other seed banks," but there is no other NGO seed bank of this size in the United States dedicated to making seeds available to the gardeners and farmers. That is a false and dangerous comparison! Seed Savers has absolutely no business being involved with Svalbard, signing international treaties with its cast of governmental players! The twisted rhetoric created to shelter Svalbard is enough to make even a corporate lawyer's head spin. Cary Fowler continues to claim that being deposited in Svalbard does not place the varieties under the FAO Treaty, which is technically correct. But the Svalbard Depositors Agreement – an enforceable contract that is actually an international treaty with Norway – dictates that the deposited varieties are to be regulated according to "terms and conditions substantially the same" which legally has the

same contractual effect. And that allows Cary Fowler to continue voicing his deception, even though the true intent is exactly the opposite.

SSE's Board must publically state their plan for Seed Savers Members' Seed Collection! They do not own it. SSE's seed collection represents the legacy and the combined efforts of more than 3,500 Listed Members who selflessly shared their families' heirloom seeds during the 33 years from 1975 to 2007. The decision to deposit those varieties into Svalbard was made by only three people – Cary Fowler, Amy Goldman and Neil Hamilton. Although they may currently have the power to do that, they do not have the right! Seed Savers Members' Seed Collection must be returned from Svalbard and the entire collection must be permanently maintained at Heritage Farm with continuing access provided for SSE's members, as well as gardeners and farmers across the U.S., as intended.

The speech that I made at The Land Institute is all true, because I knew that I would probably have to defend it in court. Going public was the strongest way I could warn all of the other NGO seed banks around the world that I have worked with for decades about the true implications of involvement with Svalbard, so that those grassroots organizations and unique seed collections will not be placed at similar risk. I have watched with interest and admiration as Vandana Shiva has developed community seed banks all across India, and have felt strongly compelled to also warn those and other indigenous seed banks worldwide. And I am especially grateful to Andrew Kimbrell and his legal staff at the Center for Food Safety, who understand the true intent of Svalbard and the FAO Treaty and are not afraid to confront the issue, no matter who is involved. That takes real courage.

(November 2010)

Kent Whealy founded the Seed Savers Exchange in 1975 and led the organization for 33 years. During that time he created and self-published all of SSE's books/inventories and membership publications, and also envisioned, wrote the nonprofit grants for and supervised the development of the facilities, infrastructure and genetic preservation projects at Heritage Farm and Twin Valleys. His numerous awards for genetic resource conservation include a MacArthur Fellowship and Russia's N. I. Vavilov Medal.