

Rural residents file herbicide drift lawsuit

EUGENE (AP) — Some rural Oregon residents have filed a lawsuit against the state over rules they say protect forest and farm landowners who spray herbicides that can drift over to neighboring property.

The seven people filing the lawsuit this week in Lane County Circuit Court in Eugene live in Western Oregon. Three are in the Blachly area, two near Sublimity a little east of Salem and two live near Walton east of Mapleton on Highway 126, The Register-Guard reported.

Their complaint alleges that laws passed by the state Legislature in 1993 give them no legal recourse in the courts from the periodic episodes of herbicide drift from neighboring landowners.

Gary Hale and Jan Wroncy of Blachly say the problems with herbicide drift go back decades. They've lived and farmed organically on 7 acres since purchasing the land in 1987. Their son, Forest Wroncy-Hale, is the third plaintiff from Blachly.

Their property is surrounded

by privately owned forested slopes frequently treated with herbicides in an effort to knock down weeds so that tree saplings can quickly grow, according to the lawsuit.

Hale said that there are times of year when the irrigation water they take from Lake Creek actually inhibits the growth of their plants because it contains herbicides that have drifted into the creek from where the products have been applied.

"The plant growth just slows tremendously," Hale said.

All seven landowners allege that herbicides from forest and farm operations regularly drift onto their property causing a range of problems from human illness to damage to the plants and trees they grow and the death of wildlife.

The complaint, filed by Eugene attorney David Force, alleges the state statutes collectively known as the "Right to Farm and Right to Forest Act" give owners of large timber and agricultural parcels immunity from lawsuits for

trespass or nuisance, two types of civil claims that have been recognized by both British and American courts for centuries.

"These cases go back to the 1600s in England," Force said. "They're recognized everywhere, including in Oregon."

The complaint said the Oregon Constitution, which went into effect in 1859, gives people the right to sue when they or their property have been "injured," and prohibits the state from enacting laws that deprive people of that legal option.

The more recent statutes say that because farming and forestry are critical to the state's economic welfare, farmers and foresters can't be sued in trespass or nuisance cases unless their practices result in damage to a commercial crop, or in someone's death or serious injury.

The state Attorney General's office declined comment on the suit. The office generally doesn't comment on litigation until it submits court filings, spokesman Tony Green said.

