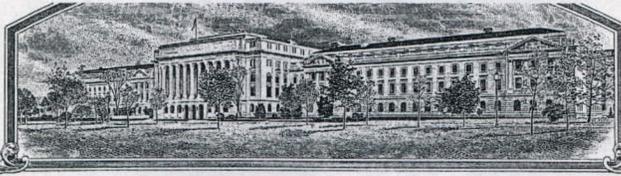


No.

9900161



# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS, SHALL COME:**

*Seminis Vegetable Seeds, Inc.*

*Whereas*, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

PEA

'Mr. Big'

*In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this second day of April, in the year two thousand two.*

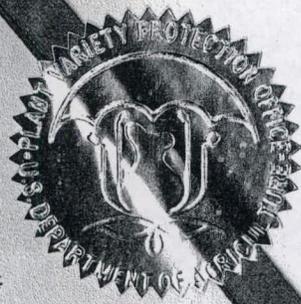
Attest:

*Paul M. Jabur*

Commissioner  
Plant Variety Protection Office  
Agricultural Marketing Service

*Arthur H. ...*

Secretary of Agriculture



U.S. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE  
SCIENCE AND TECHNOLOGY DIVISION - PLANT VARIETY PROTECTION OFFICE

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

(Instructions and information collection burden statement on reverse)

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

1. NAME OF APPLICANT(S) (as it is to appear on the Certificate)		2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER	3. VARIETY NAME
SEMINIS VEGETABLE SEEDS, INC.		XP 356	Mr Big
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)		5. TELEPHONE (include area code)	<b>FOR OFFICIAL USE ONLY</b> PVPO NUMBER 9900161
37437 State Highway 16 Woodland, CA 95695		(530)666-0931	
		6. FAX (include area code)	F I L I N G DATE 2/1/99
		(530)668-0219	
7. GENUS AND SPECIES NAME	8. FAMILY NAME (Botanical)	FILING AND EXAMINATION FEE:	
Pisum sativum	Leguminosae	FEE DATE 2450.00 11-2-98	
9. CROP KIND NAME (Common name)		CERTIFICATION FEE:	
Garden Pea		320.00 2/19/02	
10. IF THE APPLICANT NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION (corporation, partnership, association, etc.) (Common name)			
CORPORATION			
11. IF INCORPORATED, GIVE STATE OF INCORPORATION		12. DATE OF INCORPORATION	
California		1996 1934	
13. NAME AND ADDRESS OF APPLICANT REPRESENTATIVE(S), IF ANY, TO SERVE IN THIS APPLICATION AND RECEIVE ALL PAPERS			14. TELEPHONE (include area code)
Seminis Vegetable Seeds, Inc. Thomas Kramer Director, Intellectual Resource Protection & Regulatory Affairs 37437 State Highway 16 Woodland, CA 95695			31 (0) 317-450218
			15. FAX (include area code)
			31 (0) 317-450217
16. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED (Follow instructions on reverse)			
<input checked="" type="checkbox"/> Exhibit A. Origin and Breeding History of the Variety <input checked="" type="checkbox"/> Exhibit B. Statement of Distinctness <input checked="" type="checkbox"/> Exhibit C. Objective Description of the Variety <input type="checkbox"/> Exhibit D. Additional Description of the Variety (Optional) <input checked="" type="checkbox"/> Exhibit E. Statement of the Basis of the Applicant's Ownership <input type="checkbox"/> Voucher Sample (2,500 viable untreated seeds or, for tuber propagated varieties verification that tissue culture will be deposited and maintained in an approved public repository) <input checked="" type="checkbox"/> Filing and Examination Fee (\$2,450), made payable to "Treasurer of the United States" (Mail to PVPO)			
17. DOES THE APPLICANT SPECIFY THAT SEED OF THIS VARIETY BE SOLD BY VARIETY NAME ONLY, AS A CLASS OF CERTIFIED SEED? (See Section 83(a) of the Plant Variety Protection Act)			
<input type="checkbox"/> YES If "yes," answer items 18 and 19 below <input checked="" type="checkbox"/> NO If "no," go to item 20			
18. DOES THE APPLICANT SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS?		19. IF "YES" TO ITEM 18, WHICH CLASSES OF PRODUCTION BEYOND BREEDER SEED?	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED	
20. HAS THE VARIETY OR A HYBRID PRODUCED FROM THE VARIETY BEEN RELEASED, USED, OFFERED FOR SALE, OR MARKETED IN THE U.S. OR OTHER COUNTRIES?			
<input checked="" type="checkbox"/> YES If "yes," give names of countries and dates <input type="checkbox"/> NO			
USA = May 4, 1999 Spain = March 1997			
21. The applicant(s) declare that a viable sample of basic seed of the variety will be furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate.			
The undersigned applicant(s) is(are) the owner(s) of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.			
Applicant(s) is(are) informed that false representation herein can jeopardize protection and result in penalties.			
SIGNATURE OF APPLICANT (Owner(s))		SIGNATURE OF APPLICANT (Owner(s))	
NAME (Please print or type)		NAME (Please print or type)	
Thomas Kramer			
CAPACITY OR TITLE	DATE	CAPACITY OR TITLE	DATE
Director, Intellectual Resource Protection & Regulatory Affairs			

## EXHIBIT A

## Origin and Breeding History of XP356, Mr Big, Garden Pea

XP356 was developed at Asgrow's Western Breeding Station (WBS), Twin Falls, Idaho, by backcrossing and pedigree selection as follows:

- 7-30-87 Planted the powdery mildew resistant variety Knight and the susceptible variety Utrillo in the greenhouse at WBS; crosses made.
- 10-30-87 Planted F1 and Utrillo in the greenhouse at WBS; crosses made.
- 3-29-88 Planted BC1 in the greenhouse at WBS. Allowed to self.
- 7-7-88 Planted BC1F2 in the greenhouse at WBS. Selected resistant plants and crossed them to Utrillo.
- 11-8-88 Planted BC2 and Utrillo in the greenhouse at WBS; crosses made.
- 3-29-89 BC3 planted in the greenhouse at WBS; allowed to self.
- 7-24-89 BC3F2 planted in the greenhouse at WBS; selected individual resistant plants.
- 4-5-90 BC3F3 selection planted in the field at WBS under the number R902470. Observations during the growing season indicated the line was uniform and stable. All subsequent increases of XP356 trace to the bulk of R90 2470.
- 4-3-91 BC3F3+1 planted in the field at WBS under the number R91 255. Observations during the growing season confirmed the line is uniform and stable.
- 4-4-95 Planted ~300 individual progenies in the field at WBS under the number RWT 729. Observations again confirmed the line was uniform and stable.

Selection criteria at each generation reflect a balance of productivity and quality, and goodness to fit for market needs for resistance to powdery mildew, pod set under high temperatures, and long uniform pods.

Observations in 1990, 1991, and 1995 confirm XP356 is uniform and stable within commercially acceptable limits. As is true with other garden pea varieties a small percentage of offtypes can occur within commercially acceptable limits for almost any characteristic during the course of repeated multiplications. A "rabbit-ear" variant occurs in XP356 at the rate of about 1 in 5,000. This variant is characterized by stiffer stems, smaller and more narrow leaves and stipules, smaller flowers, and quite often by increased seed abortion in the pod.

EXHIBIT B

Novelty Statement Concerning XP 356 Garden Pea

XP 356 is a full season, large seive fresh-market variety. To our knowledge the variety most similar to XP 356 is Utrillo. The comparative characteristic that best distinguishes the two includes, but may not be limited to, resistance to powdery mildew: XP 356 carries the "er" gene and is resistant to powdery mildew whereas Utrillo does not carry "er" and is susceptible.

HYATTSVILLE, MARYLAND 20782  
**OBJECTIVE DESCRIPTION OF VARIETY**  
PEA (*PISUM SATIVUM*)

NAME OF APPLICANT(S) Seminis Vegetable Seeds, Inc.	VARIETY NAME OR TEMPORARY DESIGNATION XP 356
ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)	FOR OFFICIAL USE ONLY PVPO NUMBER 9900161

Place the appropriate number that describes the varietal character in the boxes below.  
Place a zero in first box (e.g.  or ) when number is either 99 or less or 9 or less.

1. TYPE:

1 - GARDEN    2 - FIELD    3 - EDIBLE-PODDED

2. MATURITY:

Node number of first bloom:     No. of days to processing     Heat Units

No. of days Earlier than . . .     1 - ALASKA WR    2 - THOMAS LAXTON WR    3 - LITTLE MARVEL

No. of days Later than . . .     4 - WANDO    5 - ALDERMAN WR    6 - AUSTRIAN WINTER

3. PLANT HEIGHT:

CM. HIGH

Cm. Shorter than . . . . .  1 - ALASKA WR    2 - THOMAS LAXTON WR    3 - LITTLE MARVEL

Cm. Taller than . . . . .  4 - WANDO    5 - ALDERMAN WR    6 - AUSTRIAN WINTER

4. VINE:

Habit: 1 - DETERMINATE    2 - INDETERMINATE     Stockiness: 1 - SLIM (Alaska)    3 - HEAVY (Alderman)  
2 - MEDIUM (Thomas Laxton WR)

Branching: 1 - NONE (Alaska)    2 - 1-2 BRANCHES (Little Marvel)    3 - MORE THAN 2 BRANCHES (Dwarf Gray Sugar)

Internodes: 1 - STRAIGHT    2 - ZIG ZAG     NUMBER OF NODES

5. LEAFLETS:

Color: 1 - LIGHT GREEN (Alaska WR)    2 - MED. GREEN (Thomas Laxton WR)    3 - DARK GREEN (Alderman)  
4 - OTHER (Specify)

Wax: 1 - NONE    2 - LIGHT    3 - MEDIUM    4 - HEAVY     1 - NOT MARBLED    2 - MARBLED (Alaska)

Number of leaflet pairs: 1 - NOT PAIRED    2 - ONE    3 - TWO    4 - THREE OR MORE

6. STIPULES:

1 - LACKING    2 - PRESENT     1 - NOT CLASPING    2 - CLASPING

1 - NOT MARBLED    2 - MARBLED     Size (Compared with leaflets): 1 - SMALLER    2 - SAME  
3 - LARGER

Color (Compared with leaflets): 1 - LIGHTER    2 - SAME    3 - DARKER

7. FLOWER COLOR:

VENATION     STANDARD     WING     KEEL } 1 - WHITE    2 - GREENISH    3 - LAVENDER  
4 - PURPLE    5 - RED  
6 - OTHER (Specify)

**8. PODS:**

2 Shape: 1 = STRAIGHT 2 = SLIGHTLY CURVED  1 End: 1 = POINTED (Alderman) 2 = BLUNT (Alaska)  
 3 Color: 3 = CURVED 1 = LIGHT GREEN (Alaska WR) 2 = MEDIUM GREEN 3 = DARK GREEN (Alderman)  
 3 Color: 4 = OTHER (Specify) \_\_\_\_\_  
 2 Surface: 1 = SMOOTH 2 = ROUGH  2 Surface: 1 = SHINY 2 = DULL  
 3 Borne: 1 = SINGLE 2 = DOUBLE 3 = SINGLE AND DOUBLE 4 = SINGLE, DOUBLE, & TRIPEE  
 3 Borne: 5 = DOUBLE & TRIPLE 6 = TRIPLE 7 = OTHER (Specify) \_\_\_\_\_  
 1  3 CM. LENGTH  1  5 MM. WIDTH (Between sutures)   9 NO. SEEDS PER POD

**9. SEEDS (95-100 Tenderometer):**

3 Color: 1 = LIGHT GREEN 2 = GREEN 3 = DARK GREEN 4 = OTHER (Specify) \_\_\_\_\_  
 Sieve: %  1  2  3  4  5  6  7  8  AVERAGE

SEEDS (Dry, Mature): Fresh Market: Sieve size is big, but not measured

1 Shape: 1 = FLATTENED 2 = ANGULAR 3 = OVAL 4 = ROUNDED  
 3 Surface: 1 = SMOOTH 2 = DIMPLED  2 Surface: 1 = SHINY 2 = DULL  
 3 Surface: 3 = WRINKLED  
 1 Color Pattern: 1 = MONOCOLOR 2 = MOTTLED 3 = STRIPED 4 = DOTTED  
 2 Primary Color: { 1 = CREAMY-WHITE 2 = CREAM & GREEN 3 = LIGHT GREEN 4 = MEDIUM GREEN  
 { 5 = DARK GREEN 6 = BLUE-GREEN 7 = YELLOW 8 = BROWN 9 = RED  
 Secondary Color: { 10 = GRAY 11 = BLACK  
 1 Häm Floor Color: 1 = WHITE 2 = TAN  1 Cotyledon Color: 1 = GREEN 2 = YELLOW 3 = ORANGE  
 3  3 GRAMS PER 100 SEEDS

**10. DISEASE: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)**

2 FUSARIUM WILT  0 NEAR-WILT  0 DOWNY MILDEW  
 0 ASCOCHYTA BLIGHT  2 POWDERY MILDEW  0 BACTERIAL BLIGHT  
 0 MOSAIC  0 PEA ENATION MOSAIC  0 YELLOW BEAN MOSAIC  
 OTHER (Specify) \_\_\_\_\_

**11. INSECT: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)**

0 APHIDS  OTHER (Specify) \_\_\_\_\_

**12. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED**

CHARACTER	NAME OF VARIETY	CHARACTER	NAME OF VARIETY
Leafiness	Utrillo	Fresh Seed Color	Utrillo
Leaf Color	Utrillo	Mature Seed Color	Utrillo
Pod Color	Utrillo	Seed Shape	Utrillo
Pod Shape	Utrillo	Plant Habit	Utrillo

COMMENTS:



U.S. DEPARTMENT OF AGRICULTURE  
 AGRICULTURAL MARKETING SERVICE

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

**EXHIBIT E  
 STATEMENT OF THE BASIS OF OWNERSHIP**

1. NAME OF APPLICANT(S)  SEMINIS VEGETABLE SEEDS, INC.	2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER  XP 356	3. VARIETY NAME  Mr Big
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)  37437 State Highway 16 Woodland, CA 95695	5. TELEPHONE (include area code) (530)666-0931	6. FAX (include area code) (530)668-0219
7. PVPO NUMBER  9900161		

8. Does the applicant own all rights to the variety? Mark an "X" in appropriate block. If no, please explain.

YES     NO

9. Is the applicant (individual or company) a U.S. national or U.S. based company? If no, give name of country

YES     NO

10. Is the applicant the original owner?  YES     NO If no, please answer the following:

a. If original rights to variety were owned by individual(s), is (are) the original owner(s) a U.S. national(s)?

YES     NO If no, give name of country \_\_\_\_\_

b. If original rights to variety were owned by a company, is the original owner(s) a U.S. based company?

YES     NO If no, give name of country \_\_\_\_\_

11. Additional explanation on ownership (If needed, use reverse for extra space):

**PLEASE NOTE:**

Plant variety protection can be afforded only to owners (not licensees) who meet one of the following criteria:

1. If the rights to the variety are owned by the original breeder, that person must be a U.S. national, national of a UPOV member country, or national of a country which affords similar protection to nationals of the U.S. for the same genus and species.
2. If the rights to the variety are owned by the company which employed the original breeder(s), the company must be U.S. based, owned by nationals of a UPOV member country, or owned by nationals of a country which affords similar protection to nationals of the U.S. for the same genus and species.
3. If the applicant is an owner who is not the original owner, both the original owner and the applicant must meet one of the above criteria.

The original breeder/owner may be the individual or company who directed final breeding. See Section 41(a)(2) of the Plant Variety Protection Act for definition.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0055. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720-5881 (voice) or (202) 720-7808 (TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C. 20250, or call 1-800-245-6340 (voice) or (202) 720-1127 (TDD). USDA is an equal employment opportunity employer.