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Federal Court Orders First-Ever Destruction of a GMO Crop
Orders Removal of Genetically Engineered Sugar Beet Seed Crop
Finds Government and Monsanto rushed to illegally plant herbicide resistant crop

San Francisco, CA – Today Federal District Judge Jeffrey S. White issued a preliminary injunction ordering the immediate destruction of hundreds of acres of genetically engineered (GE) sugar beet seedlings planted in September after finding the seedlings had been planted in violation of federal law. The ruling comes in a lawsuit filed by Earthjustice and Center for Food Safety on behalf of a coalition of farmers, consumers, and conservation groups. The lawsuit was filed on September 9, shortly after the U.S. Department of Agriculture (USDA) revealed it had allowed the seedlings to be planted.

The court outlined the many ways in which GE sugar beets could harm the environment and consumers, noting that containment efforts were insufficient and past contamination incidents were “too numerous” to allow the illegal crop to remain in the ground. In his court order, Judge White noted, “farmers and consumers would likely suffer harm from cross-contamination” between GE sugar beets and non-GE crops. He continued, “the legality of Defendants’ conduct does not even appear to be a close question,” noting that the government and Monsanto tried to circumvent his prior ruling, which made GE sugar beets illegal.

Paul Achitoff of Earthjustice, lead counsel for the plaintiffs, said, “USDA thumbed its nose at the judicial system and the public by allowing this crop to be grown without any environmental review. Herbicide resistant crops just like this have been shown to result in more toxic chemicals in our soil and water. USDA has shown no regard for the environmental laws, and we’re pleased that Judge White ordered the appropriate response.”

Plaintiff Center for Food Safety’s Senior Staff Attorney George Kimbrell said, “Today’s decision is a seminal victory for farmers and the environment and a vindication of the rule of law. The public interest has prevailed over USDA’s repeated efforts to implement the unlawful demands of the biotech industry.”

The plaintiffs—The Center for Food Safety, Organic Seed Alliance, High Mowing Organic Seeds, and the Sierra Club—had immediately sought a court order to halt the planting. On September 28 Judge White ruled that USDA’s Animal and Plant Health Inspection Service (APHIS) had violated the National Environmental Policy Act (NEPA) by allowing the plantings without analyzing the potential environmental, health, and socioeconomic impacts of growing GE sugar beets. Judge White heard testimony from the parties during a three-day hearing in November before issuing today’s ruling.

Monsanto created “Roundup Ready” crops to withstand its Roundup herbicide (with the active ingredient glyphosate), which it then sells to farmers together with its patented seed, for which it charges farmers a substantial “technology fee.” Earlier this year, the Department of Justice announced it had opened a formal investigation into possible anticompetitive practices in Monsanto’s use of such patented crops. Growing previous Roundup Ready crops such as soy,

cotton, and corn have led to greater use of herbicides. It also has led to the spread of herbicide resistant weeds on millions of acres throughout the United States and other countries where such crops are grown, and contamination of conventional and organic crops, which has been costly to U.S. farmers. There is also evidence that such herbicide-resistant crops may be more susceptible to serious plant diseases.

In an earlier case the court ruled that USDA had violated NEPA by allowing the crop to be commercialized without first preparing an Environmental Impact Statement (EIS). In August the court made any future planting and sale unlawful until USDA complies with federal law. (USDA has said it expects to complete an EIS in spring 2012.) But almost immediately after the ruling, USDA issued permits allowing companies to plant seedlings to produce seed for future Roundup Ready sugar beet crops, even though the crops are still illegal to grow, and no EIS has been prepared. The seed growers rushed to plant the seed crop in Oregon and Arizona, apparently hoping to outrun the legal action to stop it. In this latest case, USDA argued that the seedlings were separate from the rest of the sugar beet crop cycle and had no impact by themselves, but Judge White rejected this. He found that the law requires USDA to analyze the impacts of not only the seedlings, but the rest of the Roundup Ready sugar beet production process as well, before any part of that process can begin.

Courts have twice rescinded USDA's approval of biotech crops. The first such crop, Roundup Ready alfalfa, is also illegal to plant, based on the vacating of its deregulation in 2007 pending preparation of an EIS. Although Monsanto appealed that case all the way to the Supreme Court and the High Court set aside part of the relief granted, the full prohibition on its planting – based on the same initial remedy granted here, the vacatur – remains in place.

This case is Center for Food Safety v. Vilsack, No. C10-04038 JSW (N.D. Cal. 2010).

The order can be viewed here: <http://www.centerforfoodsafety.org/wp-content/uploads/2010/11/SBII-ORDER-granting-preliminary-inj.pdf>