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## U.S. Agency Violated Law in Seed Case, Judge Rules

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A federal judge ruled yesterday that the Agriculture Department violated the law by failing to adequately assess possible environmental impacts before approving [Monsanto's](#) genetically engineered alfalfa.

Judge Charles R. Breyer of Federal District Court in San Francisco said the agency had been "cavalier" in deciding that a full environmental impact statement was not needed because the potential environmental and economic effects of the crop were not significant.

Plaintiffs in the case — some alfalfa seed companies and environmental and farm advocacy groups — said they would push to stop the sales and planting of the alfalfa, which is resistant to Monsanto's Roundup herbicide.

Joseph Mendelson, legal director of the Center for Food Safety, a Washington advocacy group that organized the lawsuit, said the decision by itself could block commercial sales of genetically engineered alfalfa seeds but that the plaintiffs would ask for an injunction to make sure. Judge Breyer asked the parties to meet and propose remedies to him by Feb. 26.

Christopher R. Horner, a spokesman for Monsanto, said the company had not seen the decision but thought it would not affect its business. Monsanto was not named in the suit, which was filed against the Agriculture Department.

Calls to several spokesmen for the Agriculture Department were not returned. A recording in the department's communications office said the government closed early yesterday because of expected bad weather in Washington.

A federal judge in Washington said last week that the Agriculture Department had not done adequate assessments before approving field trials of genetically engineered grass. And last August a federal judge in Hawaii, in a case involving field trials of crops engineered to produce pharmaceuticals, ruled that the Agriculture Department had not adequately assessed the possible impact on endangered species.

Mr. Mendelson of the Center for Food Safety said yesterday's decision could set a precedent that would require the Agriculture Department to do full impact statements for other biotech crops before they are approved.

The Roundup Ready alfalfa was deregulated by the Agriculture Department in June 2005, meaning it could be grown outside of field trials. It was the first approval in years of a new genetically engineered crop. Because alfalfa is the fourth most widely planted crop in the United States, the action presented a big opportunity for Monsanto.

The Agriculture Department had first done an environmental assessment, which concluded that a longer and more detailed environmental impact statement was not needed. This was in part, the agency said, because the implanted gene conferring herbicide resistance was harmless to people and livestock.

But Judge Breyer, in his 20-page opinion, said that the agency had not adequately considered the possibility that the gene could be transferred by pollen to organic or conventional alfalfa, hurting sales of organic farmers or exports to countries like Japan that did not want the genetically engineered variety.

“An action which potentially eliminates or at least greatly reduces the availability of a particular plant — here, nonengineered alfalfa — has a significant effect on the human environment,” he wrote.

The judge also said that the Agriculture Department had too easily dismissed the possibility that planting Roundup-resistant alfalfa would lead to wider use of Roundup, which in turn would contribute to the development of weeds resistant to the popular herbicide. That is particularly a risk, he said, because many other crops like soybeans and corn are also resistant to Roundup, which is known generically as glyphosate.

“One would expect that some federal agency is considering whether there is some risk to engineering all of America’s crops to include the gene that confers resistance to glyphosate,” he wrote.