

Genetically Modified Crops, Monsanto's Roundup and the Contamination of America's Food Chain

US Supreme Court Lifts Partial Ban on Monsanto's GM Alfalfa

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On June 21, [2010]the US Supreme Court released its long awaited [decision](#) on the first case involving genetically modified crops, allowing the USDA to impose a partial deregulation, should it so choose. This would permit the sale of Monsanto's Roundup Ready alfalfa (RRA). However, in its 7-1 ruling, the court also upheld the lower decision to ban complete deregulation.

The US Supreme Court found that the "District Court abused its discretion when banning a partial deregulation and in prohibiting the planting of RRA pending completion of a detailed environmental review," known as an Environmental Impact Statement (EIS).

The decision flies in the face of the facts in this case, and subjects us to further contamination of our food supply.

Monsanto [expressed glee](#): "We have Roundup Ready alfalfa seed ready to deliver and await USDA guidance on its release. Our goal is to have everything in place for growers to plant in fall 2010."

Adversarial party Center for Food Safety also expressed delight in the decision, calling it a "[Victory for Center for Food Safety, Farmers](#)." In its release, CFS asserts:

"The Justices' decision today means that the selling and planting of Roundup Ready Alfalfa is illegal. The ban on the crop will remain in place until a full and adequate EIS is prepared by USDA and they officially deregulate the crop. This is a year or more away according to the agency, and even then, a deregulation move may be subject to further litigation if the agency's analysis is not adequate."

CFS is happy because, as the Court pointed out, "we do know that the vacatur of APHIS's deregulation decision means that virtually no RRA can be grown or sold until such time as a new deregulation decision is in place, and we also know that any party aggrieved by a hypothetical future deregulation decision will have ample opportunity to challenge it, and to seek appropriate preliminary relief, if and when such a decision is made."

While CFS may be happy to fight this case again, food freedom suffered a blow by this decision.

An Extremist Court

Dissenting Justice John Paul Stevens clarifies the convoluted decision:

“In this case, the agency [U.S. Department of Agriculture’s Animal and Plant Health Inspection Service, known as APHIS] had attempted to deregulate RRA without an EIS in spite of ample evidence of potential environmental harms. And when the court made clear that the agency had violated NEPA [National Environmental Policy Act], the agency responded by seeking to ‘streamline’ the process ... submitting a deregulation proposal with Monsanto that suffered from some of the same legal and empirical holes as its initial plan to deregulate.”

APHIS had offered the lower court a partial deregulation plan, which was rejected. That is the portion of the District Court decision that SCOTUS deemed was beyond its authority to impose.

The High Court condemned the lower court for choosing a middle course of action, instead of taking “more extreme actions on either end.” It found the lower court’s ban on future plantings inconsistent with its allowance of current planting:

“The order enjoining any partial deregulation was also inconsistent with other aspects of the very same judgment. In fashioning its remedy for the NEPA violation, the District Court steered a ‘middle course’ between more extreme options on either end.... On the one hand, the District Court rejected APHIS’s proposal ... to allow continued planting and harvesting of RRA subject to the agency’s proposed limitations. On the other hand, the District Court did not bar continued planting of RRA as a regulated article under permit from APHIS ... and it expressly allowed farmers to harvest and sell RRA planted before March 30, 2007.”

Justice Stevens, however, applauds the ‘middle road’ taken by the District Court. In defending the lower court’s two-part decision, Justice Stevens pointed out that courts must weigh the diverse equities before it:

“At the outset, it is important to observe that when a district court is faced with an unlawful agency action, a set of parties who have relied on that action, and a prayer for relief to avoid irreparable harm, the court is operating under its powers of equity. In such a case, a court’s function is to ‘do equity and to mould each decree to the necessities of the particular case.’

“Flexibility and practicality are the touchstones of these remedial determinations, as the public interest, private needs, and competing private claims must all be weighed....

“Exercising its equitable discretion to balance the interests of the parties and the public, the District Court would have been well within its rights to find that NEPA requires an EIS ... yet also to find that a partial stay of the vacatur was appropriate to protect the interests of those farmers who had already acted in good-faith reliance on APHIS.” [Internal quote marks removed.]

Geertson Seed Decision Abrogates Food Freedom

No one denies that gene transfer did occur; that GM crops contaminate natural ones. Instead, like Supreme Court nominee [Elena Kagan](#) did when defending Monsanto in this case (as Solicitor General), SCOTUS simply ignored this most important fact when deciding to allow partial deregulation.

The US Supreme Court also ignored that APHIS is unable to monitor for contamination. GE alfalfa is planted in 48 states, and, while under the purview of APHIS, contamination of natural fields occurred. The lower court was realistic when determining “that APHIS lacks monitoring capacity.”

Allowing for the spread of GM crops removes the public’s right to not choose GMOs, because the natural supply no longer exists, or becomes nearly impossible to find or afford. We saw this when [Bayer’s GM rice contaminated](#) a third of the US supply. And already today:

95% of all US beets are genetically modified ([Greenwire](#));

91% of all US soybeans ([USDA](#));

71% of US cotton ([USDA](#));

And over two-thirds (68%) of all US corn ([USDA](#)).

Today, GMO derivatives are found in [more than 70% of the foods](#) in the supermarket,” reports activist and author Jeffrey M. Smith, which includes virtually 100% of our processed food.

There are a number of other problems with GM crops, which the Supreme Court ignores, even when presented with some of these issues.

First and foremost, GMOs are created to tolerate or produce pesticide. North America is losing its natural pollinators, specifically bees, butterflies and bats, because of the enormous tonnage of chemicals sprayed in this nation. If we lose our bees, said Einstein, humans will last about six years. We need our pollinators. The entire web of life depends on them.

Those pesticide chemicals have poisoned all of our waters, damaging the biota, or making seafood toxic for humans. Chemical companies like Monsanto, Dow, Bayer, etc. created GMOs so they could sell chemicals. Those chemicals are bad for the environment and for humans.

Another side effect of our toxic spraying is we now have super bugs and super weeds. The overuse of pesticides has allowed those plants that are pesticide resistant to thrive. [Resistant pigweed](#), for example, is destroying cotton farming in the Southeast US. These biotech companies ignore the science of evolution when pushing their dangerous product on us. We are now suffering for their scientific ignorance.

Weed resistance was considered in Geertson Seed, but SCOTUS dismissed that relevancy because “Respondents in this case do not represent a class, so they could not seek to enjoin such an order on the ground that it might cause harm to other parties.”

Second, GM crops contaminate natural crops by cross breeding with them. Thus, GMOs are destroying biodiversity. The Irish potato famine happened because every Irish family grew

them - monoculture is a disaster waiting to happen. When the blight hit, there was no natural way to stop it. Phytophthora infestans spread like wildfire because its food source was everywhere.

When you destroy biodiversity, you invite total destruction from widespread infestation. This is basic natural science. GM crops increase the threat to food safety, food security.

SCOTUS ignored the facts, and science, when lifting the ban on partial deregulation.

Third, GM food is dangerous to animals, including humans. We evolved with the bugs and the natural food that exists on this planet. We did not evolve with these new GM creations of the past fourteen years. When studying evolution, the significance of this statement becomes profound. Evolution takes hundreds or thousands of years (or longer). Instead, those who eat GM foods might as well be eating food from a different planet. They did not evolve with that food and the consequences can be generational as well as immediately toxic to the eater ([organ damage](#), [sterility](#), [diabetes and obesity](#), etc.)

Biotechnology may have its uses, but not in the food supply. The Supreme Court's ruling abrogates our right to GM free food by paving the way for further contamination.

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