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October 15

August 13, 2010

Judge Revokes Approval of Modified Sugar Beets

By **ANDREW POLLACK**

A federal district court judge revoked the government's approval of genetically engineered sugar beets Friday, saying that the Agriculture Department had not adequately assessed the environmental consequences before approving them for commercial cultivation.

The decision, by Judge Jeffrey S. White of Federal District Court in San Francisco, appears to effectively ban the planting of the genetically modified sugar beets, which make up about 95 percent of the crop, until the Agriculture Department prepares an environmental impact statement and approves the crop again, a process that might take a couple of years.

The decision could cause major problems for sugar beet farmers and sugar processors. In the past the sugar industry has warned there might not be enough non-engineered seeds available. However, the judge ruled that crops currently in the ground can be harvested and made into sugar, so the effects will not be felt until next spring's planting season.

Beets supply about half the nation's sugar, with the rest coming from sugar cane. Sugar beet growers sold the 2007-8 crop for about \$1.335 billion, according to government data.

The decision came in a lawsuit organized by the Center for **Food Safety**, a Washington advocacy group that opposes biotech crops.

Judge White ruled last September that the Agriculture Department's approval of the beets violated the National Environmental Policy Act, but he did not specify a remedy. Earlier this year, he denied a request by the plaintiffs to prohibit the planting of the engineered seeds this year, saying that would be too disruptive. But he warned farmers to move toward using conventional seeds.

In his order Friday, the judge granted the plaintiffs' request to formally vacate the approval of the beets. That would bar farmers from growing them outside of a field trial.

But Judge White denied the plaintiffs' request for a permanent injunction that would have also banned the growing of the crops. He said an injunction was not necessary if the crop was no longer approved for commercial planting. .

A decision by the [United States Supreme Court](#) earlier this year in a similar case involving genetically engineered alfalfa essentially precluded the granting of an injunction.

In the alfalfa case, the [Supreme Court](#) indicated that the government might grant partial approval of a [genetically modified crop](#). It seems that such an option might be available in the sugar beet case as well, which could reduce any hardship for farmers. It is also possible the Agriculture Department will appeal.

Caleb Weaver, a spokesman for the Agriculture Department, said Friday night that the department was "looking at the decision to figure out what's appropriate as the next step." [Monsanto](#) declined to comment, saying it would defer to sugar growers and processors.

Duane Grant, a sugar beet farmer in Rupert, Idaho and chairman of the Snake River Sugar Company, said he had not seen the decision and could not assess its impact.

But Mr. Grant, who had intervened in the case, added, "I'm pleased that the crop that is currently planted would be allowed to be harvested and processed. That's clearly in the best interest of the public."

Andrew Kimbrell, executive director of the Center for Food Safety, said the ruling was another sign the Agriculture Department was not doing its job. "This is regulation by litigation," he said.

The ruling followed a hearing held earlier Friday in Judge White's courtroom.

The Agriculture Department and its allies had argued that the approval of the crop should not be revoked, saying the department's mistakes were not that serious and that the crop was going to be eventually approved anyway. At the least, they asked for a nine-month delay in revoking the approval to give the department time to put interim measures into place.

But Judge White disagreed, writing in his opinion that the Agriculture Department's errors "are not minor or insignificant" and that it had already had time since his initial ruling in September to put interim measures into place.

The judge said it was not clear legally if he could consider the economic consequences of revoking the approval, but that even if he could, the Agriculture Department had not adequately demonstrated there would be a severe impact.

In his previous ruling, Judge White said the department had not adequately assessed the consequences from the likely spread of the genetically engineered trait to other sugar beets or to the related crops of Swiss chard and red table beets.