

GE ALFALFA LAWSUIT:

Geertson Seed Farms, *et al.* v. Mike Johanns, *et al.*

Executive Summary:

Legal action challenging USDA's deregulation of genetically engineered alfalfa and seeking rescission of USDA's deregulation determination and the completion of proper environmental review.

Dubbed "Queen of the Forages," alfalfa is the fourth most widely grown crop in the United States, behind corn, soybeans, and wheat. It is grown in over 40 states and U.S. exports approach \$480 million per year. It is an important feed for all classes of agricultural animals and is critical to the dairy industry. On November 24, 2004, the United States Department of Agriculture (USDA) announced Monsanto and Forage Genetic International's petition to deregulate genetically engineered, herbicide tolerant alfalfa and released its Environmental Assessment to the public for comment. In May 2005, the USDA issued its finding that genetically engineered alfalfa would have no significant impact on the environment, and in June 2005, it decided to deregulate the product, making it available for widespread commercial use. This is the first perennial genetically engineered crop deregulated by the USDA.

On February 16, 2006, the Center for Food Safety, along with other non-profit organizations and alfalfa farmers, filed a lawsuit in the Northern District of California challenging the USDA's deregulation determination. The complaint asserts that in making its determination the USDA violated the National Environmental Policy Act (NEPA) and the Plant Protection Act (PPA). The suit asks that the court rescind the USDA's deregulation determination until the agency has completed a full environmental review of the impacts commercialization of genetically engineered alfalfa presents to the environment.

The lawsuit asks that the USDA rescind its deregulation determination until it has fully complied with its responsibilities. Specifically, the lawsuit seeks:

- (1) A halt to the commercial introduction of genetically engineered, herbicide tolerant alfalfa. USDA's deregulation determination violates the PPA because the use of genetically engineered, herbicide tolerant alfalfa will increase glyphosate resistant weeds. This will reduce the ability of farmers to control pests and weeds in alfalfa and other crops.
- (2) A halt to the commercial introduction of genetically engineered alfalfa until the USDA completes a full environmental impact statement evaluating the various potential impacts associated with this product. The impacts include an increase in the use of the herbicide glyphosate, the potential for the development of herbicide resistant weeds, and contamination of existing non-genetically engineered alfalfa seeds with genetically engineered traits.

- a. Inclusion of socio-economic impacts presented by the commercialization of genetically engineered alfalfa in the environmental impact analysis. This includes assessing:
 - 1. The potential loss in domestic market to organic producers of animal products for food. Natural food consumers and organic markets will reject organic products that may be contaminated by genetically engineered organisms, directly impacting agricultural animal producers selling certified organic products. In addition, the threat of contamination will force farmers to test their animal feeds to prove their organic qualities, increasing production costs.
 - 2. The potential loss in export markets resulting from the international community's absolute rejection of genetically engineered products. Buyers in Japan and South Korea, the U.S.'s major alfalfa export customers, have strongly indicated that contamination concerns will lead them to avoid U.S. alfalfa once the genetically engineered variety is grown here.
 - b. Examination in the environmental impact analysis of whether, how, and at what cost genetically engineered, herbicide resistant alfalfa can be kept separate from conventional, organic and other alfalfas and feed containing alfalfa.
- (3) Three plaintiffs also seek USDA's and EPA's consultation with the U.S. Fish and Wildlife Service regarding the potential impacts genetically engineered, herbicide tolerant alfalfa will have on threatened and endangered species and their habitats.

In addition to CFS, parties challenging the USDA's action include: Geertson Seed Farms, a family-owned seed farm that sells ten varieties of alfalfa seed on the domestic and international markets; Trask Family Seeds, a family-owned seed farm that sells a whole, raw, pure alfalfa seed nationwide; Beyond Pesticides, an organization committed to promoting safe air, water and land by encouraging an end to the use of toxic pesticides; The Cornucopia Institute, a group dedicated to empowering farmers and protecting the credibility of organic farming; Dakota Resource Council, a group working to preserve family farms and protect North Dakota's land, air, water, rural communities and agricultural economy; National Family Farm Coalition/Farmer to Farmer Campaign on Genetic Engineering, a group working jointly with farm groups from throughout the nation to provide a voice for farmers on agricultural biotechnology issue; Sierra Club, a national organization dedicated to exploring, enjoying, and protecting the wild places of the earth; Western Organization of Resources Council, a group that seeks to build sustainable environmental and economic communities.