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Legal, environmental hot button issues
that impact U.S. farmers.

NEPA's Effect on Farmers

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Twenty five years ago federal regulatory agencies, including EPA and USDA, did not heed the advice of the scientific community which said do not subject products of biotechnology "...to special, discriminatory government regulation."

Because this advice was not heeded, NEPA lawsuits are becoming a nightmare for America's farmers.

In 1987 the National Academy of Sciences (NAS) reviewed and studied a new field of DNA technology known as gene splicing. This splicing was applied to plants and introduced traits into crop plants. It was concluded that the risks arising from gene-spliced organisms were no different than unmodified organisms or from organisms created by conventional breeding methods.

In an article written by Gregory Conko and Henry Miller ("The Rush to Condemn Genetically Modified Crops", The Competitive Enterprise Institute), Miller declares "...the NAS concluded that there is no scientific justification for regulating gene-spliced crops any differently than conventional ones, which are not subject to any pre-market assessment or approval requirements..."

Miller goes on to point out four additional studies as well as scientific bodies, such as the American Medical Association, the United Kingdom's Royal Society, the U.N. FAO as well as the World Health Organization, have declared "...that gene-spliced crop plants are often safer than their conventional counterparts because the techniques are more precise and their effects more predictable."

These facts and judgments by the experts have not stopped environmental groups from using the National Environmental Policy Act ("NEPA") from suing in federal court to stop the use of genetically modified plants. Environmental plaintiffs do not have any substantive arguments that genetically engineered plants are not safe, but claim that USDA's environmental assessments required by NEPA are insufficient.

Environmental groups argue that massive Environmental Impact Statements ("EIS") must be prepared before plants such GE sugar beets are introduced into the market. After an EIS is prepared the environmental group usually goes back to court claiming the EIS is insufficient.

Why did EPA and USDA not accept or heed the advice of NAS? I assume the reason is fairly simple. Both agencies feel the innate desire to regulate. Because of pressure from environmentalists, USDA and EPA have now created complex regulations which apply to genetically engineered plants. Miller argues that these regulations are "scientifically unjustified."

Paperwork requirements

If the regulators had followed the scientific community, farmers would not now be facing NEPA's enormous paperwork development required by EIS statements.

Because genetically engineered plants are often safer than conventional counterparts, it appears that the no "major action" trigger should apply, nor should there be an EIS requirement. This, of course, is not the case.

Environmental activists and judicial overreach have created an incredible amount of work which must be included in an EIS because impact on the term "human environment" has been expanded almost beyond imagination.

A NEPA EIS statement must examine not only tangible ecological harms but also look at economic, social, cultural, historical, and esthetic impacts. If you read the Roundup Ready Alfalfa EIS, you will find it even addresses plant's impact on climate change!

Judges have created incredible and almost impossible areas to be addressed in an EIS as to what constitutes a significant impact under NEPA.

The following court decision gives you an idea of how out-of-control EIS statements have become. This is what a federal judge claims must be in an EIS, and I quote: "Relevant as well is whether the project will affect the local crime rate, present fire dangers, or otherwise unduly tap police and fire forces in the community...the project's impact on social services, such as the availability of schools, hospitals, businesses, commuter facilities, and parking...harmonization with proximate land uses, and a blending with the aesthetics of the area...[and a] consideration of the project's impact on the community's development policy...[such as] urban blight and decay [and] neighborhood stability and growth."

As you can see, development of an EIS is out of control.

NEPA's purpose is to require government agencies to consider whether their actions may harm the environment. The result has been, as Miller claims, "The National Environmental Policy Act is therefore a recipe for stagnation..." and as he further claims has been "...hijacked by environmental activists in order to slow down or prevent government agencies from taking actions they do not like...The statute offers fertile ground for bad faith, obstructionist litigation."

Genetically engineered crop varieties have been extremely valuable to the natural environment. The varieties allow for higher yields, lower inputs and certainly reduced environmental impacts. This was all recognized as early as 1987 by the National Academy of Sciences. NAS said then and it is true today that there is no scientific justification for regulating genetically engineered crops any differently than conventional ones.

It is time for Congress to amend NEPA and follow the advice of the scientists, not the regulators.

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