

09-475 MONSANTO CO. V. GEERTSON SEED FARMS

DECISION BELOW:570 F.3d 1130

LOWER COURT CASE NUMBER: 07-16458, 07-16492, 07-16725

QUESTIONS PRESENTED:

In this case, after finding a violation of the National Environmental Policy Act ("NEPA"), the district court imposed, and the Ninth Circuit affirmed, a permanent nationwide injunction against any further planting of a valuable genetically-engineered crop, despite overwhelming evidence that less restrictive measures proposed by an expert federal agency would eliminate any non-trivial risk of harm. The questions presented are:

1. Whether the Ninth Circuit erred in holding that NEPA plaintiffs are specially exempt from the requirement of showing a likelihood of irreparable harm to obtain an injunction.
2. Whether the Ninth Circuit erred in holding that a district court may enter an injunction sought to remedy a NEPA violation without conducting an evidentiary hearing sought by a party to resolve genuinely disputed facts directly relevant to the appropriate scope of the requested injunction.
3. Whether the Ninth Circuit erred when it affirmed a nationwide injunction entered prior to this Court's decision in *Winter v. NRDC*, 129 S. Ct. 365 (2008), which sought to remedy a NEPA violation based on only a remote possibility of reparable harm.

CERT. GRANTED 1/15/2010

EXPEDITED BRIEFING SCHEDULE. JUSTICE BREYER TOOK NO PART.