

The U.S. Supreme Court has granted review of the [Ninth Circuit's decision](#) in *Monsanto Co. v. Geertson Seed Farms*. The grant is pretty clearly a follow-up to [Winter v. NRDC](#), the sonar case from last term, in which the Court reversed an injunction the Ninth Circuit had imposed limiting the use of mid-frequency active sonar during Navy training exercises off the southern California coast. *Monsanto v. Geertson* doesn't have the national security implications of *Winter*, but it raises similar issues about remedies in NEPA cases. The Ninth Circuit upheld an injunction prohibiting planting of Monsanto's "Roundup Ready" genetically modified alfalfa pending preparation of an environmental impact statement by the USDA's Animal and Plant Health Inspection Service.

The questions presented in the Supreme Court are:

1. Did the Ninth Circuit err in holding that NEPA plaintiffs are specially exempt from the requirement of showing a likelihood of irreparable harm to obtain an injunction?
2. Did the Ninth Circuit err 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. Did the Ninth Circuit err when it affirmed a nationwide injunction entered prior to this court's decision in *Winter v. NRDC*, which sought to remedy a NEPA violation based on only a remote possibility of reparable harm?

It's never good news for NEPA plaintiffs when the U.S. Supreme Court, which is notoriously unfriendly to NEPA, gets involved. This case could provide the Court with an opportunity to reinforce its decision in *Winter*, and to extend that decision beyond the military / national security context.