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On Friday, a federal judge [revoked](#) USDA's approval of Roundup-ready sugar beets. Sugar beets are planted on ten million acres in ten states. The order was based on USDA's failure to perform an environmental impact statement prior to the approval. Given that USDA's *raison d'être* is promoting agribusiness, it's not surprising that environmental concerns are a low priority.

Friday's ruling related to remedies in light of the Supreme Court's recent decision in another case involving Monsanto. It took me awhile to track down the [judge's opinion](#) on the merits, but the key concern was cross-pollination allowing the modified gene to spread to other plants. This is a particular concern because the seeds for sugar beets, table beets, and Swiss chard are all grown in one valley in Oregon.

Perhaps the most interesting part of the opinion is that the judge focused on consumer choice, not consumer harm:

[T]his Court finds that the potential elimination of farmer's choice to grow non-genetically engineered crops, or a consumer's choice to eat non-genetically engineered food, and an action that potentially eliminates or reduces the availability of a particular plant has a significant effect on the human environment.

It might be better to phrase this as "an environmental impact should be considered significant when it could eliminate the ability of farmer's to grow or consumer's to choose non-genetically engineered food." That seems plausible to me, although I don't share this queasiness about GMOs.

Besides the inevitable appeals, USDA will probably respond by introducing safeguards that reduce the probability of pollen reaching non-GMO beets or chard. That's quicker and easier than writing an EIS.