



Syngenta's GMO product dispute widens as farmers file class-action lawsuits

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Star Tribune
October 11, 2014 - 5:01 PM

Minnetonka-based Syngenta Seeds is facing a potential billion-dollar backlash from farmers over a new variety of corn seed that producers in Minnesota and elsewhere grew and that China has refused to buy.

Farmers filed class-action lawsuits last week in Minnesota, Illinois, Iowa, Missouri, Kansas and Nebraska federal courts against Syngenta Corp. and its seed and crop protection companies. The complaints claim that Syngenta "crippled" the U.S. corn export market to China and lowered domestic corn prices for all farmers.

Minnetonka-based Cargill also sued Syngenta in September in a similar case.

Syngenta issued a statement calling the latest lawsuits "without merit," and said it "strongly upholds the right of growers to have access to approved new technologies that can increase both their productivity and their profitability."

At issue is corn seed that contains a genetically engineered trait, MIR 162, to protect corn against damage from more than a dozen insect species such as the corn borer and corn rootworm.

Syngenta spent five to seven years and \$200 million developing the trait, according to court documents. The company began selling it commercially to U.S. growers in 2011 as Agrisure Viptera, after approval by the U.S. Department of Agriculture in 2010.

The issue is not that farmers object to Syngenta's right to manufacture genetically modified seed products, also known as GMOs.

The problem, according to the lawsuits, is that Syngenta sold Viptera corn — and farmers grew it — before the product had been approved by China, one of the largest importers of U.S. corn in recent years.

"The vast majority of U.S. corn has been effectively excluded from what was previously the third largest export market for U.S. corn," the complaints said, and U.S. farmers have lost sales and income of more than \$1 billion.

China is also the largest market overall for Minnesota agricultural exports, especially soybeans, according to federal and state reports.

Last November, Chinese authorities turned away U.S. corn shipments that Cargill was delivering because the cargoes contained traces of the Viptera corn. Cargill was able to sell the GMO corn to other countries that have approved Viptera, but it claimed \$90 million in damages from the Chinese rejections.

Trans Coastal Supply Co. of Decatur, Ill., a major exporter of livestock feed products, also sued Syngenta in September.

China has not decided yet whether to approve Viptera corn for import, and until then has adopted a zero-tolerance policy for accepting the product — either in corn, or in dried distillers grain, a valuable byproduct of ethanol production used as animal feed.



Corn.
Feed Loader,

Minnesota farmer John Mages, who grows about 800 acres of corn and soybeans near Belgrade in Stearns County, said that he planted Viptera corn in 2013, but not in 2014. He said most of his Viptera corn was sold to a local ethanol plant, and he's not likely to join any class-action lawsuit.

Even though Viptera was planted by a minority of U.S. farmers, the lawsuits said, it has been mixed with other corn in grain elevators, rail hopper cars, barges and oceangoing ships, effectively contaminating them with a product that China will not accept.

The plaintiff in the Minnesota lawsuit, filed Thursday, is Marlen Greer, a producer near Zumbro Falls. He grows non-GMO corn and claims that a recent crop was rejected by a terminal elevator because it tested positive for a GMO corn trait, according to the complaint, which "could only be as a result of cross-pollination from nearby fields."

The National Grain and Feed Association estimated earlier this year that Chinese rejection of U.S. shipments also lowered domestic corn prices by 11 cents per bushel, leading to a projected loss of \$1.14 billion for the last nine months of the marketing year that ended on August 31, 2014.

Rather than waiting for China to approve Viptera corn, the lawsuits said, Syngenta "pushed its product on farmers" to enhance its profit margins, and is still doing so with plans to keep selling Viptera and Duracade, a similar product that was introduced and grown for the first time in 2014 and that also does not have China's approval.

In its statement, Syngenta noted that the genetic trait in Viptera was approved by U.S. agencies in 2010, commercialized "in full compliance with regulatory and legal requirements," and approved for import in several major corn importing countries.

"Farmers can have confidence in planting this innovative technology," the company stated on its website, because hybrids containing the Agrisure Viptera trait have been sold and planted in multiple countries. Japan and Mexico have been the top two importers of U.S. corn in recent years.

Doug Albin, who grows corn and soybeans near Clarkfield in western Minnesota, said he has not purchased or grown Viptera corn, but he is troubled by the lawsuits.

"I'm always concerned about what my customer wants," Albin said. "But on the flip side we can't allow foreign governments to dictate our technology and how we grow food in the United States."

He called the situation a "dilemma," with all sides hiring attorneys. "Everybody's looking for someone to blame," Albin said.

China is not against genetically modified crops, and in recent weeks has been promoting them in a media campaign, according to reports. China allows some GMO seeds to be cultivated, and has imported millions of tons of GMO soybeans in the past decade. China's interest in importing corn is more recent, and it purchased an estimated 5 million tons of foreign corn in 2012-2013, up from 47,000 tons in 2008, according to the USDA.

Michael Swanson, agricultural economist for Wells Fargo, said he's skeptical about China's zero-tolerance policy for Viptera corn. "It seems unusual given all the food safety issues that are occurring in China to believe that they have a better regulatory framework than we do," he said.

Swanson said that in the past decade, China has made a habit of raising concerns about U.S. shipments at just the times when prices were changing significantly.

"Typically it was when the market had peaked in price and was starting to come down, which allowed them to repurchase those same products much cheaper after the issue had been resolved," he said.

Besides corn, he said, China had issues with U.S. cotton that fit the same pattern.

"It always works out to their advantage," he said. "It's never the case where they have to end up paying more after they've made a decision."

In the latest case, U.S. corn futures had soared to \$8 a bushel in the summer of 2013, but had dropped almost 50 percent by the end of the year. Swanson said it's impossible to prove that China was using concerns about Viptera as a ploy to exit contracts for pricey corn, but it could be interpreted that way.

"I call it the Wal-Mart effect," he said. "When someone becomes that big a part of your sales base, they have enormous leverage over you."

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