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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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MONSANTO CO. ET AL. *v.* GEERTSON SEED FARMS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 09–475. Argued April 27, 2010—Decided June 21, 2010

The Plant Protection Act (PPA) provides that the Secretary of the Department of Agriculture may issue regulations "to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States." 7 U. S. C. §7711(a). Pursuant to that grant of authority, the Animal and Plant Health Inspection Service (APHIS) promulgated regulations that presume genetically engineered plants to be "plant pests"—and thus "regulated articles" under the PPA—until APHIS determines otherwise. However, any person may petition APHIS for a determination that a regulated article does not present a plant pest risk and therefore should not be subject to the applicable regulations. APHIS may grant such a petition in whole or in part.

In determining whether to grant nonregulated status to a genetically engineered plant variety, APHIS must comply with the National Environmental Policy Act of 1969 (NEPA), which requires federal agencies "to the fullest extent possible" to prepare a detailed environmental impact statement (EIS) for "every . . . major Federal actio[n] significantly affecting the quality of the human environment." 42 U. S. C. §4332(2)(C). The agency need not complete an EIS if it finds, based on a shorter statement known as an environmental assessment (EA), that the proposed action will not have a significant environmental impact.

This case involves a challenge to APHIS's decision to approve the unconditional deregulation of Roundup Ready Alfalfa (RRA), a variety of alfalfa that has been genetically engineered to tolerate the herbicide Roundup. Petitioners are the owner and the licensee of the intellectual property rights to RRA. In response to petitioners'

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deregulation request, APHIS prepared a draft EA and solicited public comments on its proposed course of action. Based on its EA and the comments submitted, the agency determined that the introduction of RRA would not have any significant adverse impact on the environment. Accordingly, APHIS decided to deregulate RRA unconditionally and without preparing an EIS. Respondents, conventional alfalfa growers and environmental groups, filed this action challenging that decision on the ground that it violated NEPA and other federal laws. The District Court held, *inter alia,* that APHIS violated NEPA when it deregulated RRA without first completing a detailed EIS. To remedy that violation, the court vacated the agency's decision completely deregulating RRA; enjoined APHIS from deregulating RRA, in whole or in part, pending completion of the EIS; and entered a nationwide permanent injunction prohibiting almost all future planting of RRA during the pendency of the EIS process. Petitioners and the Government appealed, challenging the scope of the relief granted but not disputing that APHIS's deregulation decision violated NEPA. The Ninth Circuit affirmed, concluding, among other things, that the District Court had not abused its discretion in rejecting APHIS's proposed mitigation measures in favor of a broader injunction.

Held:

1. Respondents have standing to seek injunctive relief, and petitioners have standing to seek this Court's review of the Ninth Circuit's judgment affirming the entry of such relief. Pp. 7–14.

(a) Petitioners have constitutional standing to seek review here. Article III standing requires an injury that is (i) concrete, particularized, and actual or imminent, (ii) fairly traceable to the challenged action, and (iii) redressable by a favorable ruling. See *Horne* v. *Flores*, 557 U. S. ___, ___. Petitioners satisfy all three criteria. Petitioners are injured by their inability to sell or license RRA to prospective customers until APHIS completes the EIS. Because that injury is caused by the very remedial order that petitioners challenge on appeal, it would be redressed by a favorable ruling from this Court. Respondents nevertheless contend that petitioners lack standing because their complained-of injury is independently caused by a part of the District Court's order that petitioners failed to challenge, the vacatur of APHIS's deregulation decision. That argument fails for two independent reasons. First, one of the main disputes between the parties throughout this litigation has been whether the District Court should have adopted APHIS's proposed judgment, which would have *replaced* the vacated deregulation decision with an order expressly authorizing the continued sale and planting of RRA. Accordingly, if the District Court had adopted APHIS's proposed judgment, there would still be authority for the continued sale of RRA notwith-

standing the District Court's vacatur, because there would, in effect, be a new deregulation decision. Second, petitioners in any case have standing to challenge the part of the District Court's order enjoining a partial deregulation. Respondents focus their argument on the part of the judgment that enjoins planting, but the judgment also states that before granting the deregulation petition, even in part, the agency must prepare an EIS. That part of the judgment inflicts an injury not also caused by the vacatur. Pp. 7–11.

(b) Respondents have constitutional standing to seek injunctive relief from the complete deregulation order at issue here. The Court disagrees with petitioners' argument that respondents have failed to show that any of them is likely to suffer a constitutionally cognizable injury absent injunctive relief. The District Court found that respondent farmers had established a reasonable probability that their conventional alfalfa crops would be infected with the engineered Roundup Ready gene if RRA were completely deregulated. A substantial risk of such gene flow injures respondents in several ways that are sufficiently concrete to satisfy the injury-in-fact prong of the constitutional standing analysis. Moreover, those harms are readily attributable to APHIS's deregulation decision, which gives rise to a significant risk of gene flow to non-genetically-engineered alfalfa varieties. Finally, a judicial order prohibiting the planting or deregulation of all or some genetically engineered alfalfa would redress respondents' injuries by eliminating or minimizing the risk of gene flow to their crops. Pp. 11–14.

2. The District Court abused its discretion in enjoining APHIS from effecting a partial deregulation and in prohibiting the planting of RRA pending the agency's completion of its detailed environmental review. Pp. 14–22.

(a) Because petitioners and the Government do not argue otherwise, the Court assumes without deciding that the District Court acted lawfully in vacating the agency's decision to completely deregulate RRA. The Court therefore addresses only the injunction prohibiting APHIS from deregulating RRA pending completion of the EIS, and the nationwide injunction prohibiting almost all RRA planting during the pendency of the EIS process. P. 14.

(b) Before a court may grant a permanent injunction, the plaintiff must satisfy a four-factor test, demonstrating: "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *eBay Inc.* v. *MercExchange, L. L. C.*, 547 U. S. 388, 391. This test fully ap-

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plies in NEPA cases. See *Winter* v. *Natural Resources Defense Council, Inc.,* 555 U. S. ___, ___. Thus, the existence of a NEPA violation does not create a presumption that injunctive relief is available and should be granted absent unusual circumstances. Pp. 15–16.

(c) None of the four factors supports the District Court's order enjoining APHIS from partially deregulating RRA during the pendency of the EIS process. Most importantly, respondents cannot show that they will suffer irreparable injury if APHIS is allowed to proceed with any partial deregulation, for at least two reasons. First, if and when APHIS pursues a partial deregulation that arguably runs afoul of NEPA, respondents may file a new suit challenging such action and seeking appropriate preliminary relief. Accordingly, a permanent injunction is not now needed to guard against any present or imminent risk of likely irreparable harm. Second, a partial deregulation need not cause respondents any injury at all; if its scope is sufficiently limited, the risk of gene flow could be virtually nonexistent. Indeed, the broad injunction entered below essentially pre-empts the very procedure by which APHIS could determine, independently of the pending EIS process for assessing the effects of a *complete* deregulation, that a *limited* deregulation would not pose any appreciable risk of environmental harm. Pp. 16–23.

(d) The District Court also erred in entering the nationwide injunction against planting RRA, for two independent reasons. First, because it was inappropriate for the District Court to foreclose even the possibility of a partial and temporary deregulation, it follows that it was inappropriate to enjoin planting in accordance with such a deregulation decision. Second, an injunction is a drastic and extraordinary remedy, which should not be granted as a matter of course. See, *e.g.*, *Weinberger* v. *Romero-Barcelo*, 456 U. S. 305, 312. If, as respondents now concede, a less drastic remedy (such as partial or complete vacatur of APHIS's deregulation decision) was sufficient to redress their injury, no recourse to the additional and extraordinary relief of an injunction was warranted. Pp. 23–24.

(e) Given the District Court's errors, this Court need not address whether injunctive relief of some kind was available to respondents on the record below. Pp. 24–25.

570 F. 3d 1130, reversed and remanded.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, GINSBURG, and SOTOMAYOR, JJ., joined. STEVENS, J., filed a dissenting opinion. BREYER, J., took no part in the consideration or decision of the case.