

SYNGENTA CORN LITIGATION

The Difficulty in Separating Out "Record Large 2014 Crop" from "Syngenta Seed Impacts" in Court

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This class action lawsuit has caused a lot of discussion around the state - with many farmers and agribusiness people receiving solicitations from legal firms to sign up as participants in the action. I even received two letters myself from law firms in Goodland and Garden City encouraging me to participate!

Although it is possible that the Syngenta seed issue has had some negative impact on U.S. corn prices during the current old crop 2014/15 marketing year, I think it is going to be difficult to quantitatively separate out the other pervasive "large crop", "ethanol market", and "high U.S. dollar" impacts on U.S. corn markets in general and U.S. corn domestic use and trade in particular from those of the Syngenta seed case.

If we as agricultural economists were asked in court to address this issue, the predominant market impact of a 14.2 billion bushel corn crop would likely be the first and primary supply-demand factor that had a negative impact on U.S. corn prices in the later months of 2014. In addition to that, the negative impact on the corn market of other factors have to be considered in an analysis of the Syngenta case. These would include a) EPA Renewable Fuel Standard (RFS) adjustments (i.e., at least temporary "capping" and downward adjustment) can be claimed by those critical of the lawsuit's merits, as well as b) the negative impact on U.S. grain trade in general and U.S. corn trade in particular from the high U.S. dollar.

I think it can be effectively be argued that these factors in themselves had a negative impact on U.S. corn prices, and that while the impact of the Syngenta seed issue is likely "tangible", it was not the primary factor driving U.S. corn prices lower. And to separate out its impact from the other primary factors driving U.S. corn prices lower into the harvest of 2014 is going to be an assumption-laden, challenging exercise that is certainly open to critical scrutiny from the Syngenta defense in this lawsuit.

It seems the best piece of information that those filing the lawsuit have is that strong positive price reaction in the U.S. and world grain sorghum market that has occurred in MY 2014/15 due to a likely combination of the Syngenta Corn GMO issue and internal Chinese agricultural policy and grain stockpile management choices. Again, while the Syngenta GMO Ruling is likely somewhat of a factor in the reorientation from corn to grain sorghum imports by the Chinese in MY 2014/15, the defense in this lawsuit can effectively argue that domestic Chinese grain supply and stockpile management policy decisions and practices also had a strong impact. To separate out the two issues will be a difficult task, and not assured to entirely favor the Syngenta GMO ruling in my view.

So, those are my own preliminary thoughts on the ultimate merits and provability of the Syngenta lawsuit. In my opinion, it is going to be difficult to prove that Syngenta GMO issues

had as much of an impact on the U.S. corn market as those filing the class action lawsuit are hoping for. Out of this confusing and interwoven set of corn market supply-demand factors, it may be that ultimately a few cents per bushel are awarded to the plaintiffs, and that there will be some reward for the farmers signing on to the class action lawsuit. But it seems unlikely to me that \$0.15-\$0.50-\$1.00 per bushel in damages can be assigned to Syngenta alone. There are just too many other pervasive and predominant factors and what seem to be difficult to separate out factors to say that Syngenta GMO actions alone drove the U.S. corn market lower in MY 2014/15.

Those are my thoughts on the issue given what I understand of how the U.S. corn market has been affected by various factors during the 2014/15 marketing year.

Additional information can be found via the Center for Agricultural Law and Taxation (CALT) website at Iowa State University by Roger McEowen:

<http://www.calt.iastate.edu/article/pending-syngenta-lawsuits-raise-numerous-questions>