

Canola crop battle hits Court of Appeal

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REGINA (SNN) -- A nearly five-year legal battle between organic farmers and two companies over genetically modified canola moved into Saskatchewan's highest court on Monday, as farmers made another bid to launch a class action lawsuit.

The farmers are appealing a 2005 ruling that denied their attempt to have a lawsuit against Monsanto and Bayer CropScience certified as a class action.

Surrounded by stacks of thick documents related to the case, a three-member panel of the Saskatchewan Court of Appeal heard arguments dealing with whether the case meets the criteria of the province's Class Actions Act.

The farmers involved want to hold Monsanto and Bayer CropScience liable for losses they say are due to the introduction of genetically modified canola and the contamination of organic crops.

Two farmers were named as plaintiffs in the suit that aims to include all Saskatchewan organic grain farmers, said Saskatoon lawyer Terry Zakreski. They contend the Court of Queen's Bench applied an "overly rigorous" test to the issue of class certification.

To be certified, a case must meet five requirements, including whether a class action is the preferable procedure and whether the plaintiffs adequately represent the interests of the class.

The Saskatchewan Class Actions Act, which sets out the rules for class actions, was introduced by the provincial government in 2001. A couple of class actions have so far been certified in the province, said Regina lawyer Gordon Kuski, representing Monsanto.

The hearing had been scheduled to last two days, but the appeal court adjourned the matter Monday. The court gave Zakreski until early January to provide a written statement dealing with certain issues.

Monsanto Canada spokesperson Trish Jordan said with organic farmers choosing to bring the issue to the appeal stage, the onus was on Zakreski to show where errors in law might have been made in the decision last year from Justice Gene Anne Smith to deny certification. Smith has since been appointed to the Court of Appeal.

"Based on what we heard in court today, we are confident that Justice Smith's judgment will not be overturned on appeal -- but that decision is left solely with the three-judge appeal court panel," Jordan said.

Organic farmer Arnold Taylor, one of a small group that watched the court proceedings, said class certification is important in this case because it would be difficult for individual farmers who sustained losses to pursue court action on their own.