

High Court splits over rights of farmers

OTHER ACTIONS

Among the Supreme Court's actions Monday:

ABORTION: Asked the Bush administration for its views in a politically charged abortion case involving aggressive strategy used to deter doctors from performing abortions. The administration will consider whether a law that protects access to abortion clinics can be used to punish protesters who list doctors' personal information on the Internet and advertise them as "wanted" posters.

UNEQUAL PAY: Refused to consider shielding states from lawsuits over unequal pay for people in the same job. The justices turned back an appeal from a Texas college, which now must pay damages to a female professor who sued under a 1963 federal law requiring employers to give men and women equal pay for equal work.

INDEPENDENT

CANDIDATE: Turned back an appeal from Libertarian presidential candidate Harry Browne, who sued Arizona because it wouldn't put him on the 2000 ballot.

By Gina Holland
Associated Press

WASHINGTON | Supreme Court justices clashed in a major wetlands protection case Monday with a 4-4 stalemate that sets the stage for renewed debate over whether farmers should have more freedom to work in environmentally sensitive areas.

The court affirmed a judgment against a California man punished for converting wetlands into vineyards and orchards without getting permission first. Angelo Tsakopoulos, who has 900 acres of apples and wine grapes in California's Central Valley, wanted the justices to rule that farmers do not need the same pollution permits to plow fields that developers need to build shopping malls or new subdivisions.

Because Mr. Tsakopoulos is an acquaintance of one of the justices, only eight court members took part when the case was argued last week at the Supreme Court. The eight announced Monday they were equally divided and would not write an opinion. They did not announce the breakdown of the vote.

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the government's oversight of wetlands.

"It's a reprimand, but we shouldn't dance too hard into the night. It does show the protections are quite fragile," said Tim Searchinger, a lawyer for Environmental Defense.

The U.S. Army Corps of Engineers and the Environmental Protection Agency determined that Mr. Tsakopoulos' Borden Ranch violated the Clean Water Act of 1972. He was ordered to pay \$500,000 in fines and restore four acres of wetlands.

Justice Anthony Kennedy, who did not participate in the case, is also from California.

"Had Justice Kennedy been able to participate in this case, we quite likely would have won it," said Timothy Bishop of Chicago, one of Mr. Tsakopoulos' attorneys. "The issue is now tied up for the court in the future."

Mr. Bishop also said the Corps of Engineers should be more selective in pursuing fines against farmers.

The corps lost a Clean Water Act case at the Supreme Court in 2001 over its attempt to block a landfill in the Chicago suburbs that critics said would harm migrating birds. The 5-4 decision limited the scope of government protection of wetlands. Justice Kennedy was in the majority.

Patrick Parenteau, a Vermont Law School professor who represents wetlands managers, said the next major Clean Water Act case to reach the high court could involve land clearing and mining excavation. But he said justices may be reluctant to get involved in another case for some time.

The Fish and Wildlife Service estimates the nation has lost about 58,500 acres of wetlands annually since 1997.

At issue in the Borden Ranch case was the use of a "deep ripping" plow that punctures the soil at a depth of about six feet. Deep ripping is a common farming practice for preparing orchards for planting.

The ranch attorney argued last week that the plowing, like seeding and irrigating, is a normal farming activity that Congress has exempted from regulation.

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