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Topic subject SC Rejects 3 High-Profile Environmental Cases - TX Reservoir, CWA For Farms, "Regulatory Takings"

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232711, SC Rejects 3 High-Profile Environmental Cases - TX Reservoir, CWA For Farms, "Regulatory Takings"

Posted by hatrack on Wed Feb-24-10 01:22 PM

In its first set of orders since returning from a monthlong recess, the Supreme Court declined yesterday to consider three separate industry challenges to federal environmental regulations.

Environmentalists hailed the court's decision not to review a year-old ruling requiring farmers to secure Clean Water Act approval for the use of pesticides already permitted under the Federal Insecticide, Fungicide and Rodenticide Act. U.S. EPA is now reviewing the National Pollutant Discharge Elimination System to devise a permitting system that complies with the ruling.

EDIT

Another case denied review was Texas Water Development Board v. Department of Interior, which weighed prospective future development against environmental conservation. The decision not to review the case derails plans by Dallas-area officials to someday build the proposed Lake Fastrill reservoir along the Neches River. In that case, a three-judge panel on the 5th U.S. Circuit Court of Appeals had unanimously upheld a lower court's decision that the Fish and Wildlife Service did not violate the National Environmental Policy Act by designating 25,000 acres of east Texas wetlands as the Neches River National Wildlife Refuge in 2006. Local governments said they would likely need to build the reservoir by 2050 to accommodate increased water demand (Greenwire, Oct. 8, 2009).

EDIT

The court also declined to review Rose Acre Farms Inc. v. United States, a case in which an egg farm sued the federal government for damages after the government cracked down on potential contamination by harmful bacteria. After an outbreak of salmonella that caused hundreds of illnesses was traced back to the farm, the Department of Agriculture destroyed some of the farm's eggs and required the company to sell others on the less-lucrative market for liquid, pasteurized eggs. Rose Acre sued USDA, claiming the company was entitled to recoup lost revenue because the government response constituted a "regulatory taking," as defined by the 5th Amendment of the Constitution. The Court of Federal Claims awarded the company \$5.4 million in damages but that award was overturned last March by the U.S. Court of Appeals for the Federal Circuit.

EDIT

<http://www.nytimes.com/gwire/2010/02/23/23greenwire-supreme-court-denies-3-high-profile-environmen-26153.html>