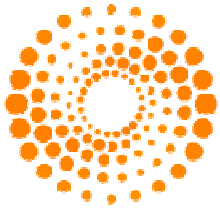

US top court accepts raisin case tied to Depression-era law

Farmers object to setting aside crops without payment, 9th Circuit had upheld Great Depression-era program

By Jonathan Stempel - November 20th, 2012

The U.S. Supreme Court agreed to address what may constitute an improper government "taking," in an appeal by California raisin growers who objected to a federal program designed to stabilize supply and prices in the raisin market.

The court agreed to address the constitutionality of a "reserve tonnage" program overseen by the U.S. Department of Agriculture under a law dating from 1937, near the end of the Great Depression.

It requires raisin "handlers", who include farmers and packers, to set aside part of their crops, in an effort to prevent supply gluts and price volatility.

In the 2002-2003 and 2003-2004 years , 47 percent and 30 percent of the raisin crops, respectively, were set aside. California produces virtually all U.S. raisins and about 40 percent of raisins worldwide, according to the California Raisin Marketing Board.

Marvin and Laura Horne, the operators of Raisin Valley Farms in central California, claimed that the reserve requirement violated the Fifth Amendment to the U.S. Constitution, which permits the federal government to take private property, but requires it to pay "just compensation."

In July 2011, the 9th U.S. Circuit Court of Appeals in Pasadena, California, rejected the Hornes' takings claim on the merits, finding that the reserve requirement did not deprive them of an ability to profit.

Eight months later, it revisited the issue and decided it lacked jurisdiction to decide the takings claim, saying Congress had allowed farmers like the Hornes to seek compensation in the U.S. Court of Federal Claims, w hi ch handles lawsuits seeking money from the government.

In their appeal, the Hornes called the reserve requirement an improper "direct" appropriation of their crops, and said the 9th Circuit's findings conflicted with rulings from the Supreme Court and five other federal appeals courts.

They received support from some private property advocates including the Cato Institute, which said the 9th Circuit approach would force property owners into a "Rube Goldberg" hopscotch across different federal courts to recover.

The U.S. government had urged the Supreme Court not to accept the appeal.

In a second case accepted for review, the Supreme Court agreed to decide whether a doctor, who waited too long to sue under a federal program over injuries caused by a vaccine, may nevertheless be entitled to recover attorneys' fees and costs.

Oral arguments in both cases are likely to take place in February or March, with decisions to follow by the end of June.

The cases are Horne et al v. U.S. Department of Agriculture, U.S. Supreme Court, No. 12-123; and Sebelius v. Cloer, U.S. Supreme Court, No. 12-236. (Reporting by Jonathan Stempel in New York; Editing by Howard Goller and Leslie Gevirtz)