



## SCOTUS ruling on property owners applauded

Chris Woodward

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Attorneys are hailing a Supreme Court decision involving property owners and the U.S. Army Corps of Engineers.

The high court ruled unanimously on Tuesday that a Minnesota company could file a lawsuit against the Corps of Engineers over the agency's determination that its land is off limits to peat mining under the Clean Water Act.

Hans von Spakovsky, senior legal fellow for The Heritage Foundation, describes it as "another big loss for the government and another big win for the American people."

"What's interesting about this case is that it shows just how far the federal government is willing to go in abusing its power," he explains, "[because] they denied these companies the use of their own property and then said, *Well, you can't sue us* – even though they were subject to all kinds of fines. And the court obviously threw that out and said you can't have a rule like that."

Ilya Shapiro, senior fellow in constitutional studies at the Cato Institute, calls it a "great victory" for property rights.

"[And] for anyone who wants to get their day in court if the government tells them they can't use the property how they wanted," Shapiro adds. "It was a unanimous opinion – [and] that's important [because] it follows up on a unanimous opinion from several years ago on a related case called *Sackett* where the issue was, when you boil it down, essentially the same."

While the Supreme Court decision doesn't find the government or Army Corps of Engineers in the wrong, Shapiro does point to opinions of Justices Kennedy, Thomas, and Alito as questioning the scope of the Clean Water Act to effectively go into people's backyards.

"It might be foreshadowing some litigation that we have on the horizon involving the so-called 'Waters of the United States' [WOTUS] rule that various plaintiffs are challenging the regulatory authority of EPA and the other agencies to expansively regulate things that don't seem to be rivers and streams and lakes and other navigable bodies."

Von Spakovsky agrees that Justice Kennedy was concerned over the way the government is able to just come in and tell people they can't use their own private property. "Basic property rights are a fundamental right on which this nation was founded," he notes.

Shapiro feels the same way. "If you can't keep and use that which you earn by the sweat of your brow, then that's a pretty big violation of individual freedom," he points out. "This is not a matter of using property to hurt anyone else; this is, again, just using your own property as you see fit – and the government needs strong justification to impede your use of property."