



Raisin farmer challenging USDA's \$700G fine before Supreme Court

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A California farmer is fighting the government to keep the fruits of his labor.

Raisin producer Marvin Horne is heading to the U.S. Supreme Court on Wednesday in a bid to stop the federal government from seizing his dried fruit crop -- almost half of it -- without "just compensation." He plans to argue that a nearly 80-year-old federal law designed to keep prices steady violates his Fifth Amendment right to just compensation for a taking by the government.

Horne has been fighting the government over raisin seizures for more than a decade, first by claiming he was not subject to the law, and now by claiming the law is unconstitutional. He first ran afoul of the U.S. Department of Agriculture in 2002, when it moved to take 47 percent of his crop. He sought to organize opposition, establishing the Raisin Valley Marketing Association, a coalition of 61 raisin growers in Fresno and Madera counties.

"A lot of us all jumped up and yelled, and said, 'No, it's crazy. What's the matter with you guys?'" Horne told [NPR](#). "It was no avail, and that's when I came home, and I talked with my wife, and we said, 'No, we're not going to deliver.'"

Horne, of Fresno, is both a "handler" and a "producer" of raisins, two occupations treated differently under the New Deal-era policy. Producers grow grapes; handlers dry and package them. The law in question allows the federal government to seize as much as 47 percent of a handler's goods, depending on market conditions in a given year. The seized raisins are warehoused for months or years and then sold back to handlers, who sell them on the international market. The law was crafted to avoid a raisin glut, and the government uses the proceeds to help the industry promote raisin consumption in foreign markets.

Horne and his wife Laura initially claimed that as producers, they were not subject to program. But the USDA demanded the crop, and when he refused, imposed \$700,000 in fines and

penalties. Under the current case, Horne is arguing the raisin raid violates his Constitutional rights.

The law has support in the raisin industry. According to the USDA, more than 99 percent of America's raisins, and 40 percent of the world's supply, comes from California. But prices tend to fluctuate sharply from year to year. More than 1,600 raisin growers from California have joined the USDA in its defense of the program, and say the Hornes are "free riders" who evaded the marketing orders, yet benefited from the higher prices.

"Having been caught free-riding at the expense of their competitors, [the Hornes] now seek refuge in high constitutional principle," the Sun-Maid Growers of California told the Supreme Court when it first heard Horne's newly-crafted Constitutional argument in 2013.

The law in question is part of the 1937 Agricultural Marketing Agreement Act (AMMA), which was created during the Great Depression. Horne's challenge has wound its way through the legal system, and Wednesday's high court hearing will be its second. Lower courts have ruled in several different ways, including ruling that the AMMA is constitutional and that they lack jurisdiction to change the law. In the 2013 hearing, the Supreme Court sent the case back to the Ninth Circuit Court of Appeal for a ruling with Justice Elena Kagan noting that that court should determine if the law was unconstitutional or just "the world's most out-of-date law."

The Ninth Circuit ultimately ruled that the "Takings Clause" does not apply to raisins, and even if it did, the government's withholding of raisins from the market created just compensation for the raisins by raising the market price on the raisins that were allowed to be sold.

Raisin handlers aren't the only ones forced to surrender their crops. According to the USDA, their "[Marketing Order Commodity Index](#)" requires about 20 different handlers - who may also be growers - to give a certain percentage of their crop to the powers that be -- almonds, plums, and spearmint oil included.

A USDA spokesperson told FoxNews.com the current law "provides the industry in California with the ability to establish and modify handling regulations in order to improve global marketing opportunities for producers and handlers."

The official added: "The USDA is continuing to review the proposed rule-making actions. We will wait to hear the Supreme Court's decision on Horne v. USDA before publishing any proposed or final rule-making actions."

Opponents of the law believe this is an antiquated system with little to no economic benefit.

"The Raisin Marketing Order does not benefit the growers, but rather places a substantial and disproportionate burden on them," said attorney Jessica Ring Amunson in [a written brief](#) representing more than 30 independent raisin growers.

"This case presents the important question of whether the federal government can seize ownership, each year, of a large portion of a farmer's raisin crop without paying the just

compensation required by the Takings Clause of the Fifth Amendment,” Horne’s attorney, Michael McConnell, wrote in another [court brief](#).

McConnell argued the USDA paid farmers — like Horne — “nothing at all” for some of their raisins.

“It’s such a bizarre situation,” said CATO Institute’s Editor-In-Chief Ilya Shapiro. “Whether you’re liberal, conservative, libertarian, it just sounds like a backward way of accomplishing whatever your goal might be.”

The U.S. produced more than 370,000 tons of raisins last year, but “the crop has struggled with the lack of water” in California, where U.S. production is forecast to drop 14 percent this year, according to the [2014 California Raisin Grape Objective Measurement Report](#).