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"...nor shall private property be taken for public use,  
without just compensation."

Fifth Amendment, U.S. Constitution

## **Greenwire Previews SCOTUS Takings Case**

September 27<sup>th</sup>, 2012

Greenwire's Lawrence Hurley has posted his preview of next week's Supreme Court arguments in *Arkansas Game & Fish Comm'n v. United States*, No. 11-597 (cert. granted Apr. 2, 2012).

In *Ark. girds for showdown with Army Corps over forest flooding*, Hurley writes:

The Supreme Court's job is to decide whether temporary flooding of the type that occurred at the Black River site can constitute a "taking," which is generally viewed as a permanent loss of property.

Or as Ilya Shapiro, a legal scholar at the libertarian Cato Institute in Washington, rephrased the question: "When a tree falls in a forest due to temporary flooding, does it make a sound for which you can recover under the takings clause?"

The story details some of the personalities on the property owner side, and is worth reading.