



Conservatives
for
Property Rights

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Statement on U.S. Supreme Court Ruling in *Sackett v. EPA*

This statement on the U.S. Supreme Court's unanimous decision in the *Sackett v. Environmental Protection Agency* WOTUS case may be attributed to James Edwards, Executive Director, Conservatives for Property Rights:

"The Supreme Court's ruling in favor of Mike and Chantell Sackett and against EPA's overbroad construal of the Clean Water Act's reach over dry parcels of land disconnected from an actual body of water is a victory for property rights. This further reins in an executive agency's latitude to interpret statutes outside of what the law actually says.

'Last year, when Conservatives for Property Rights joined the Atlantic Legal Foundation and the Committee for Justice as amici for the Sacketts, it was just before the Supreme Court issued its *West Virginia v. EPA* opinion. That case similarly constrained the EPA from stretching its reading of the statute well beyond the bounds of the Clean Air Act's actual language. While the principles of that ruling aligned with constraint of the EPA's excesses in the Clean Water Act case to come, there was no guarantee of a similarly aligned result here. The two decisions together take a bite out of the Administrative State's toolbox.

"Significantly, the 5-4 majority opinion here adopted the test the Sacketts sought and ALF, CFJ and CPR supported in our brief: 'The Court should definitively adopt the *Rapanos* [v. U.S.] plurality's surface connection (i.e., physical connection) test as a necessary condition for establishing Clean Water Act jurisdiction over wetlands. . . . The Petitioners are urging the Court to adopt the *Rapanos* plurality's view that 'only those wetlands with a continuous surface connection to bodies that are "waters of the United States" in their own right, so that there is no clear demarcation between "waters" and wetlands, are "adjacent to" such waters and covered by the Act"' (emphasis in original).

"The court sets forth a brighter line, bolstering property rights and the rule of law. Indeed, *Sackett* adopts the *Rapanos* surface connection test. To be considered 'waters' covered by the Clean Water Act, only wetlands directly connected to an actual body of water, 'relatively permanent, standing, or continuously flowing bodies of water,' count. This should deprive EPA and Corps of Engineers bureaucrats from wielding inscrutable, unilateral discretion to take private property from people without compensation—even imposing heavy costs and fines.

"CPR congratulates the Sacketts, their attorneys at the Pacific Legal Foundation and property owners across our nation on this restoration of a modicum of reasonable property rights and quiet title."

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