

Wetlands Ruling Ushers in Era of Clarity — and Uncertainty

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On May 25, the US Supreme Court established a constrained reading of the coverage of wetlands under the Clean Water Act, providing clarity to a question that has gone unresolved for decades.

“I think [the court’s decision] will bring a lot more certainty,” **Ann D. Navaro** told [Law360](#).

Navaro said that the Supreme Court’s decision will make it easier for property owners and regulators to determine whether a wetland is a “water of the United States.” In addition, some of the language in the majority’s opinion suggests that the court’s narrow interpretation could extend to other water bodies, such as ephemeral and intermittent streams.

The ruling, however, does not entirely strip power from federal agencies. Navaro notes, for example, that the majority did recognize that wetlands that generally have a surface connection to a covered water can sometimes be disrupted by drought or other factors.

“I expect that as the agencies decide how to implement this opinion, that type of fact-specific inquiry will still require some professional judgment as to how that might work,” Navaro said.

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