

9-1-2002

United States v. Lamplight Equestrian, No. 00 C 6486, 2002 U.S. Dist. LEXIS 3694 (N.D. II. Mar. 8, 2002)

Jared Ellis

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>

Custom Citation

Jared Ellis, Court Report, United States v. Lamplight Equestrian, No. 00 C 6486, 2002 U.S. Dist. LEXIS 3694 (N.D. II. Mar. 8, 2002), 6 U. Denv. Water L. Rev. 183 (2002).

This Court Report is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

The organization's response cited El Paso's application to CWQCD, which stated that the company's property included a mineshaft connecting to the Roosevelt Tunnel. As a result, the court found there remained a genuine issue of material fact regarding El Paso's ownership interest in the mineshaft and denied El Paso's motion.

Merc Pittinos

United States v. Lamplight Equestrian, No. 00 C 6486, 2002 U.S. Dist. LEXIS 3694 (N.D. Ill. Mar. 8, 2002) (holding that the Army Corps of Engineers has the authority to regulate wetlands with an intermittent connection to interstate or navigable waterways).

The United States Army Corps of Engineers ("Corps") filed suit in Federal District Court for the Northern District of Illinois against Lamplight Equestrian ("Lamplight") for using fill material to build a road in a wetland area without a permit. Lamplight claimed the Corps lacked authority to regulate the area due to the United States Supreme Court decision in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* ("SWANCC"), which reduced the scope of the Corps' authority. Lamplight also claimed that an earlier permit entitled it to build the road. Each party filed a motion for summary judgment. The court granted the Corps' motion for summary judgment against Lamplight.

The disputed wetland was located on Lamplight's property north of the headwaters of Brewster Creek. The creek connected to the Fox River, which flowed into other interstate waterways. In considering the motions for summary judgment, the district court decided that the only relevant issue pertained to the jurisdiction of the Corps.

The Corps argued that despite the Supreme Court's ruling in *SWANCC*, the Corps' authority to regulate the wetland remained intact. Six lower court decisions holding that *SWANCC* only narrowly reduced the Corps' power substantiated this argument. The Corps claimed that administrative regulations included wetlands within the scope of the Corps' authority, so long as they could affect interstate commerce. To affect interstate commerce, a wetland or like area must lie adjacent to a navigable waterway. In this case, an unbroken line of water connected the wetland area and Brewster Creek, a tributary of the Fox River, which in turn fed other waterways, crossing state boundaries. Thus, the Corps possessed the necessary authority to regulate the wetland.

The district court agreed with the Corps. Its analysis of the Supreme Court's decision in *SWANCC* followed other narrow readings in the reduction of the Corps' authority. Significantly, the district court decided that the crucial distinction between this case and the *SWANCC* case was the degree of isolation of the regulated area. In *SWANCC*, the waters in question lacked a direct connection to a

navigable waterway. The decision explicitly upheld the authority of the Corps to regulate areas with a significant nexus to navigable waterways.

The district court next addressed the dispute regarding the connection between the wetland and the Fox River. Lamplight disputed the connection, claiming that the drainage ditch running from the wetland ended fifty feet east of a swale carrying water to Brewster Creek. However, Lamplight conceded that, at points, a continuous stream of water existed between the wetland and the swale, especially during wet seasons. The deposition testimony of one of Lamplight's shareholders substantiated this finding. The court found persuasive a Ninth Circuit Court of Appeals decision, *Headwaters Inc. v. Talent Irrigation District*, where intermittent connections to a navigable waterway established Corps jurisdiction. Following this rationale, the court determined that since pollutants discharged into areas connected to navigable waterways eventually reach those waterways; the Corps must be able to regulate the initial discharge. Thus, because the wetland connected to a navigable waterway, it was subject to the Corps regulation.

The district court found Lamplight's argument did not have merit when it asserted that a 1993 permit gave the requisite authority to build the road. The permit authorized Lamplight to build a parking area and a pond, not a road. In addition, the permit specifically stated that if the specifications of the construction project changed in any way, Lamplight needed to contact the Corps to ensure compliance with regulations and to determine if Lamplight needed to procure additional permits. As a result of its findings, the court granted the Corps' motion for summary judgment, and denied Lamplight's motion.

Jared Ellis

Greenfield Mills, Inc. v. O'Bannon, 189 F. Supp. 2d 893 (N.D. Ind. 2002) (holding that the defendant did not violate Clean Water Act when a fish hatchery was partially drained causing abnormal water flow and discharge of mud in the river).

Property owners sought review in the United States District Court for the Northern District of Indiana of an administrative entry of summary judgment in favor of the Fawn River State Fish Hatchery ("Hatchery"). The court rejected all of the property owners' claims and entered an order in favor of the Hatchery.

The Fawn River is located in the northeast region of Indiana. The Hatchery, located on the river near Orland, Indiana, raised smallmouth bass, walleye, muskies, channel catfish, and rainbow trout for stocking Indiana's lakes and rivers. The Indiana Department of Natural Resources ("IDNR") owned and operated the Hatchery. The