

**10-1062 SACKETT V. EPA**

DECISION BELOW: 622 F.3d 1139

LOWER COURT CASE NUMBER: 08-35854

**QUESTION PRESENTED:**

Chantell and Michael Sackett own a small lot in a built-out residential subdivision that they graded to build a home. Thereafter, the Sacketts received an Administrative Compliance Order from the Environmental Protection Agency claiming that they filled a jurisdictional wetland without a federal permit in violation of the Clean Water Act. At great cost, and under threat of civil fines of tens of thousands of dollars per day, as well as possible criminal penalties, the Sacketts were ordered to remove all fill, replace any lost vegetation, and monitor the fenced-off site for three years. The Sacketts were provided no evidentiary hearing or opportunity to contest the order. And, the lower courts have refused to address the Sacketts' claim that the lot is not subject to federal jurisdiction.

Do Petitioners have a right to judicial review of an Administrative Compliance Order issued without hearing or any proof of violation under Section 309(a)(3) of the Clean Water Act?

LIMITED TO THE FOLLOWING QUESTIONS: 1. MAY PETITIONERS SEEK PRE-ENFORCEMENT JUDICIAL REVIEW OF THE ADMINISTRATIVE COMPLIANCE ORDER PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT, 5 U. S. C. §704? 2. IF NOT, DOES PETITIONERS' INABILITY TO SEEK PRE-ENFORCEMENT JUDICIAL REVIEW OF THE ADMINISTRATIVE COMPLIANCE ORDER VIOLATE THEIR RIGHTS UNDER THE DUE PROCESS CLAUSE?

CERT. GRANTED 6/28/2011