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An island on an island.

AP MICHIGAN NEWS

Supreme Court splits over government wetlands protections

June 19, 2006

BY GINA HOLLAND
ASSOCIATED PRESS

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WASHINGTON (AP) -- The Supreme Court ruled 5-4 Monday that regulators may have misinterpreted the federal Clean Water Act in refusing to allow two Michigan property owners to build a shopping mall and condos on wetlands they own.

At the same time, justices could not reach a consensus on whether government wetlands protections extend miles away from waterways.

The decision is the first significant environmental ruling for the high court headed by new Chief Justice John Roberts, and justices were so fractured that the main opinion only had the votes of four justices.

Roberts, one of those four, said that the result was so confusing that "lower courts and regulated entities will now have to feel their way on a case-by-case basis."

The court voided rulings against June Carabell and John Rapanos, who wanted to fill their wetlands near Lake St. Clair in Macomb County. Carabell wanted to build condos on wetlands she owns about a mile from the lake. Rapanos wanted to put a shopping mall on his property, which is about 20 miles from the lake.

Instead of ruling in the property owners' favor, as they requested, justices said lower courts must reconsider whether ditches and drains near wetlands are waters.

The court's four most conservative members wanted a more sweeping ruling, clearing the way for development of land unless it was directly connected to waterways.

The court's four most liberal members said that such a ruling would reject three decades of practice by the Army Corps of Engineers and threaten the environment.

In the middle was Justice Anthony M. Kennedy.

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