



Washington Insider -- Wednesday

What TPP is All About

6/1/2016 | 6:02 AM CDT

By DTN's Washington Insider

Here's a quick monitor of Washington farm and trade policy issues from DTN's well-placed observer.

Supreme Court Gives Landowners Victory with Clean Water Act Ruling

Jurisdictional determinations by the U.S. Army Corps of Engineers under the Clean Water Act are considered a final agency action and are subject to judicial review under the Administrative Procedure Act, according to a unanimous ruling issued Tuesday by the U.S. Supreme Court.

The case, heard by the top U.S. court in March, was based on a suit originally brought by Hawkes Co. Inc. in a challenge to a Corps determination that wetlands on its property can be regulated under the Clean Water Act, which would require the company to obtain a Section 404 dredge-and-fill permit prior to extracting peat from the land.

Chief Justice John Roberts wrote in the opinion that he disagreed with the Corps thinking that a jurisdictional determination wasn't a final agency action, "and that, even if it were, there are adequate alternatives for challenging it in court."

Hawkes in their original case argued that the land in question was well away from the Red River of the North (120 miles) and was not connected to navigable waters. However, the Corps said in their view, the wetlands in question were of exceptional quality and had a significant nexus with the river, one of the components for claiming oversight.

The issue the Supreme Court was asked to determine was whether Hawkes could proceed with a lawsuit challenging the Corps' claim of jurisdiction or whether it had to go through the permitting process before taking such a step. The permitting process can sometimes be lengthy and expensive.

But the Court ruling will allow Hawkes to proceed with the suit, as Roberts wrote in the opinion that waiting until the end of the permitting process could be "can be arduous, expensive and long." The court rejected arguments by the corps that lawsuits should await an enforcement action.

Taiwan Hog Producers Protest Outside Legislature Over U.S. Pork

Nearly 1,000 hog farmers from across Taiwan protested outside the Legislative Yuan on Tuesday to demand that the new Democratic Progressive Party (DPP) government not allow in American pork containing traces of a veterinary drug banned in Taiwan. The previous Kuomintang (KMT) government adopted a "zero tolerance" policy on traces of the leanness-enhancing drug ractopamine in pork imported from the U.S., a policy widely supported and promoted by the DPP.

Though Taiwan currently allows the import of US pork free of ractopamine, Washington has said that Taiwan's attitude toward American pork containing traces of the drug would affect future trade talks, including Taiwan's access to the Trans-Pacific Partnership (TPP). During the country's presidential election campaign, Taiwan's new president, Tsai Ing-wen, suggested she would consider easing the ractopamine ban on pork to advance trade talks with the US. Recent reports indicate the new government will move in that direction, triggering the protests.

The KMT is demanding that Premier Lin sign a pledge not to lift the bans on U.S. pork containing ractopamine and on food products from nuclear affected areas in Japan. Local media have also reported that the DPP government, which is seeking close ties with Japan, may also lift restrictions on imports of food products from areas in northeastern Japan that were affected by a nuclear power plant meltdown in 2011.

Washington Insider: What TPP is All About

Supporters of the proposed Trans-Pacific Partnership (TPP) trade deal are now pushing hard on the argument that the agreement is essential to allow the United States to maintain its key position in the Pacific, The Hill reported this week. Proponents say passing the TPP will demonstrate U.S. leadership in the region and define future economic relationships, as well as long-term stability.

"TPP recognizes both America's concrete economic interests in Asia and demonstrates U.S. steadfastness," Robert Zoellick, the former World Bank president and U.S. trade representative, recently wrote in the Wall Street Journal. Furthermore, "if the US abandons TPP, our Asian allies and partners will perceive America as yielding to China, and they will accommodate accordingly," Zoellick told The Hill.

No one disputes that it is better for the U.S. to have a strong presence in the Pacific Rim, "from the perspective of making sure that we are in fact setting up trading rules," Douglas Holtz-Eakin, former director of the Congressional Budget Office and president of the American Action Forum, told reporters recently.

A key problem is that presumptive GOP presidential nominee Donald Trump has made opposing global trade deals a centerpiece of his campaign and likely Democratic nominee Hillary Clinton also has turned against the proposed deal, The Hill says.

President Obama, by contrast, is arguing that if the United States doesn't write the rules, China will take the lead on both regional foreign policy and trade The Hill says. The president is wrapping up a weeklong trip that included stops in Vietnam and Japan, two TPP partners, where he pushed for passage of the deal.

In Japan, Obama and Prime Minister Shinzo Abe both vowed to ratify the TPP before the end of the year.

U.S. Trade Representative Michael Froman said recently that there is no way to measure "the cost to American

leadership if we fail to pass TPP and allow China to carve up the Asia-Pacific through their own trade agreement." In fact, supporters view TPP as a way to push Beijing into adopting higher trade and economic standards in the rapidly growing region.

As part of that plan, the United States and China are working aggressively toward forging a bilateral investment treaty. Fabio Ghironi, an economics Professor at the University of Washington, said that TPP will "create an opportunity for engagement rather than for antagonizing" with China, giving the U.S. and its trading partners more influence on the security and trade fronts in the region.

But the TPP still faces opposition in Congress from both Democrats and Republicans who are stressing that they won't help pass the TPP until the White House resolves their concerns on issues like the treatment of pharmaceuticals and tobacco.

Amid all this, TPP trading partners such as New Zealand are saying that the deal must be passed or the United States will face the stark reality of being left out. This is a growing reality with the 16-nation Regional Comprehensive Economic Partnership moving forward with China and India as well as New Zealand and Australia. That deal could be done by year's end, putting the pressure on the TPP countries.

"This is unquestionably the year to do it," Tim Groser, New Zealand's ambassador to the United States, told reporters recently. If Congress doesn't pass the TPP this year "where the US will go is a very interesting question," Groser told The Hill.

How important the geopolitical argument will be remains to be seen. The Hill says that most congressional lawmakers understand the gravity of the decision they are facing on whether to pass the TPP this year. Gabe Horwitz, vice president of the economic program at the center-left think tank Third Way, said that lawmakers are looking at both the economic and the strategic aspects of the deal but "U.S. leadership in the region is a huge thing on Capitol Hill."

Thomas Donohue, president and CEO of the US Chamber of Commerce and a powerful trade advocate said that TPP will determine which of the countries in the Pacific are going to align with U.S. views and which ones align with China. He also argues that whomever wins the White House will have to acknowledge that point.

So, the fight over the TPP is important, extremely bitter and likely will be prolonged. It is especially important to agriculture and should be watched closely by producers as it proceeds, Washington Insider believes.

Want to keep up with events in Washington and elsewhere throughout the day? See DTN Top Stories, our frequently updated summary of news developments of interest to producers. You can find DTN Top Stories in DTN Ag News, which is on the Main Menu on classic DTN products and on the News and Analysis Menu of DTN's Professional and Producer products. DTN Top Stories is also on the home page and news home page of online.dtn.com. Subscribers of MyDTN.com should check out the US Ag Policy, US Farm Bill and DTN Ag News sections on their News Homepage.

If you have questions for DTN Washington Insider, please email edit@dtn.com

(GH/CZ)

© Copyright 2016 DTN/The Progressive Farmer. All rights reserved.