

THE NEW ORLEANS ADVOCATE

Supreme Court sets Oct. 1 as date of oral arguments in St. Tammany frog case

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The dusky gopher frog will be at the center of one of the first cases before the nation's nine — or eight — highest justices when their new term begins Oct. 1.

The U.S. Supreme Court will finally decide a long-running dispute between a group of St. Tammany Parish landowners and the U.S. Fish and Wildlife Service, which has designated 1,500 acres of land in the eastern part of the parish as critical habitat for the endangered dusky gopher frog.

The catch? No frogs actually live on the land, and they haven't been seen there in at least half a century. Only about 100 of the frogs are left in the wild, and those are confined to a couple of small tracts in Mississippi.



But the government has argued that if the frog is to make a comeback, the St. Tammany land would be essential to restoring a healthy population size.

That decision angered landowners and a timber company that has a lease on the land.

They said the designation has prevented them from earning millions of dollars by using the land for logging or development.

The case was first filed in federal court in New Orleans in 2013. District and appeals courts sided with the government. The case was appealed to the Supreme Court last year, and in something of a surprise, the justices agreed to hear it.

That decision may have been prompted in part by the dozens of “friend of the court” briefs filed by outside groups with no direct connection to the case.

Some of the briefs are ideological. A group of 18 Republican state attorneys general filed a brief arguing against federal government overreach.

Others have related beefs. Landowners in San Juan County, Utah, have bickered with federal officials over habitat designations for the Gunnison sage grouse they say amount to the federal government taking control of private property.

On the other side, briefs in support of the government have been filed by landowners, environmental law professors, economists and former leaders of the Department of the Interior. They argue the habitat designations are based on the opinions of biologists who understand the species best and that the protection of endangered species is in the public interest and can eventually result in an increase in land value.

The case’s outcome could depend President Donald Trump’s nominee to fill the vacancy left by Justice Anthony Kennedy’s retirement, which takes effect July 31, and on when that nominee is confirmed.

If a strongly conservative justice is confirmed by the Senate before the court’s new term begins, it could portend well for the landowners, who are supported by a host of Republicans and the Pacific Legal Foundation, a prominent conservative legal advocacy group.

If, however, the nomination process drags on beyond Oct. 1 and the new member is unable to hear the oral arguments and vote on the case, it could favor the government and environmentalists.

If the court deadlocks at 4-4, it would leave in place the lower court decisions, unless the court decides to reschedule the case for new arguments in its following term.