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Subject: DOJ settles high-profile Clean Water Act case with farmer

By Annie Snider

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The Department of Justice today announced a \$1.1 million settlement with a California farmer over wetlands destruction, ending a case that agricultural groups and property rights activists had criticized as federal overreach under the Clean Water Act.

John Duarte and Duarte Nursery Inc. agreed to pay \$330,000 in civil penalties and fund \$770,000 in restoration work to compensate for damage to 22 acres of protected streams and wetlands on his property. The agreement allows Duarte to return most of the site back to agricultural use and seek future determinations about whether streams and wetlands on the property are subject to federal protections.

Duarte was found guilty by a federal district court judge last year of violating the Clean Water Act by hiring a consultant to conduct "deep ripping" through waterways protected under the 1972 water law. Most farming practices, including plowing, are exempted from the law's permitting requirements, but deep ripping is not.

"Today's agreement affirms the Department of Justice's commitment to the rule of law, results in meaningful environmental restoration, and brings to an end protracted litigation," said Jeffrey Wood, acting assistant attorney general for the Justice Department's Environment and Natural Resource Division. The DOJ emphasized that "this case is not (and will not be used as) a pretext for federal prosecution of farmers who engage in normal plowing on their farms."

In a statement, Duarte said settling was a "difficult decision" that he came to "reluctantly" given the risks that an even greater penalty would have posed to his business.

WHAT'S NEXT: The settlement agreement is subject to 30 days of public comment and must ultimately be approved by the court.

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