

## **Citizen Action**

Supreme Court clears way for citizens to act as mini-EPAs

Editorial

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Amid important decisions concerning states' rights and the legality of arresting people who run from police, the U.S. Supreme Court last week quietly handed down a major victory for the environment.

In case involving the polluting of a South Carolina river, the high court upheld the right of environmental groups to invoke federal environmental laws such as the Clean Water Act in suits seeking to stop pollution.

In short, it clears the way for individuals to act, as allowed under provisions of the Clean Air Act, as "private attorneys general."

Corporations and businesses interests have encouraged courts to support the idea that only government agencies should be allowed to enforce federal environmental laws.

This has frustrated environmental groups who contend they would be left waiting on the sidelines for the overtaxed EPA to take action or be more aggressive in enforced the law.

The test case came in 1992 when Friends of the Earth and a local South Carolina group named Clean sued the owner of a South Carolina hazardous waste incinerator for violations of the Clean Water Act.

This was an incinerator that was found guilty of exceeding allowable limits on mercury in its river discharge 489 times between 1987 and 1995.

The owners of the incinerator, Laidlaw Environmental Services, however, argued that the case should be dismissed because the environmental groups lacked the proper standing to sue. They also argued the case was moot because, shortly after the suit was filed, the company installed new equipment and fixed the discharge problems. Subsequently, the company closed the incinerator but held on to its discharge permit.

But in a 7-to-2 decision, the high court rightly dealt a blow to both arguments and overturned a lower court ruling.

In the majority opinion, Justice Ruth Bader Ginsburg noted that the litmus test was not proving the damages done to the environment but "injury to the plaintiff." She ruled that the plaintiffs had done an adequate job of proving their personal loss caused by the damage to the river and were not responsible for proving the actual environmental damage to the waterway.

Ginsburg also noted that the case would be moot only if it was “absolutely clear” there was no chance of the violations recurring. Such was not the case.

“Congress has found that civil penalties in the Clean Water Act cases do more than promote immediate compliance...they also deter future violations,” Bader Ginsburg wrote.

In both respects, this was a victory for clean water.

This decision should put industrial polluters on notice that whether they will be held accountable for federal standards will not depend on the EPA’s workload. The power of the Clean Water Act now on the bottom shelf.