

Citizen groups can sue alleged polluters

Court victory for environmentalists

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Washington—The U.S. Supreme Court handed environmentalists a major victory Wednesday, upholding the right of citizen groups to sue alleged polluters under the federal Clean Water Act.

The decision is expected to have a major impact because activists have frequently used citizen suits as a means to enforce environmental laws—often winning court victories that go beyond the positions that government agencies have been willing to pursue.

The 7-2 ruling “is one of the biggest legal victories environmentalists have won in the past 20 years,” said David Beckman, staff attorney for the Natural Resources Defense Council in Los Angeles, which filed a friend-the-court brief in the case.

Because the ruling would apply not only to the Clean Water Act but to more than 20 other environmental laws that have citizen-suit provisions, it is expected to affect hundreds of cases nationwide, including many in the West, Beckman said.

Business groups and conservative legal organizations had asked the court to throw out citizen suits on the grounds that only government agencies, not private groups or individuals, should be allowed to enforce the law. As a fallback, they also argued courts should be required to dismiss lawsuits if a company stopped whatever action was alleged to have harmed the environment.

Those arguments had prevailed in the 4th U.S. Circuit Court of Appeals, which hears cases from Virginia and the Carolinas and is widely regarded as the most conservative of the federal appeals courts.

But the high court disagreed on both points.

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

“A would-be polluter may or may not be dissuaded by the existence of a remedy on the books, but a defendant once hit in its pocketbook will surely think twice before polluting again,” she wrote.

Justices Antonin Scalia and Clarence Thomas, who dissented, objected that the ruling improperly permits “law enforcement to be placed in the hands of private individuals.”

“A Clean Water Act plaintiff pursuing civil penalties acts as a self-appointed mini-EPA,” Scalia wrote.

The Clean Water Act, along with several other environmental laws, includes a provision that a party that prevails or “substantially prevails” in a suit is entitled to have the polluter pay for its legal bills. Those provisions on legal fees have been as chief way that advocacy groups finance environmental lawsuits.

The case began in 1992 when Friends of the Earth and other environmental groups notified Laidlaw Environmental Services, a South Carolina company that operated a hazardous waste incinerator, that they intended to file suit under the Clean Water Act.