

The Tampa Tribune

Tampa, Florida

Wednesday, January 25, 2006

Opinion

Florida's Stake In Defeating Alito

The U.S. Senate soon will consider Judge Samuel Alito Jr. for a lifetime appointment to the U.S. Supreme Court. One aspect of Alito's qualifications that most media have not stressed is his appellate court record of legislating from the bench to weaken environmental and public health safeguards.

For example, Alito supported restrictions on citizen enforcement efforts under the Clean Water Act. The standard he embraced would have forced victims of illegal pollution to scientifically prove harm to the environment. The Supreme Court later rejected this untenably restrictive test, holding that the proper measure of standing is "not injury to the environment, but injury to the plaintiff."

If confirmed, Alito could be the deciding vote in two important Clean Water Act cases in which developers and polluters are arguing that headwater streams, tributaries and adjacent wetlands should lose all federal antipollution protections.

What is at stake for the state of Florida? Most, if not all, of the state's major rivers, lakes and coastal waters are fed by small streams, creeks, canals, wetlands and other waters that would lose Clean Water Act protections if the polluters and developers before the U.S. Supreme Court get their way.

Their argument is that any waterway in Florida which receives or could receive industrial or municipal pollution but is not capable of supporting commercial navigation should no longer be subject to any federal restrictions on discharges or dredging or requirements to clean up waters polluted by mercury, dioxin or other contaminants. This destructive theory would most threaten efforts to clean up Florida's polluted waters.

America depends upon Supreme Court justices to uphold and enforce our nation's environmental and public health safeguards. That's why Florida's two U.S. senators, Bill Nelson and Mel Martinez, have a duty to their constituents to vote against Alito's confirmation.

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