

56 Environmental, Conservation Groups Nix Alito for Supreme Court

WASHINGTON, DC, January 24, 2006 (ENS) - The Senate Judiciary Committee today recommended Supreme Court nominee Samuel Alito on a party line vote, 10 to 8. Alito's nomination will now go to the full Senate.

In a letter to the U.S. Senate released Monday, the nonprofit environmental law firm Earthjustice and 55 other conservation groups urged the Senate to oppose the confirmation of Judge Samuel Alito Jr. to a lifetime seat on the Supreme Court. None of these groups opposed the confirmation of Chief Justice John Roberts.

"Conservation and environmental groups did not oppose President Bush's previous Supreme Court nominations of D.C. Circuit Judge John G. Roberts, Jr. and White House Counsel Harriet Miers. Indeed, we have not urged the Senate to oppose any of the eight Supreme Court nominations since Robert Bork, whom some of the undersigned groups opposed in 1987," the letter states.

"Earthjustice has not opposed a Supreme Court nominee since Judge Robert Bork in 1987," said Glenn Sugameli, Earthjustice senior judicial counsel. "Judge Alito's record indicates that he would pursue his own extreme legal theories to create new barriers that prevent enforcement of laws that protect families and communities from pollution. The Senate should refuse to confirm Judge Alito."

The environmental community has united around the opposition of Judge Alito to a lifetime seat on the Supreme Court for four main reasons, Earthjustice states.

Commerce Clause: Judge Alito's record, including most prominently his dissent in *Rybar v. United States*, indicates that he has a very narrow view of the Congress's authority under the Constitution's Commerce Clause, which underlies most federal environmental laws. During the hearing, Judge Alito refused to acknowledge his faulty reasoning even though the Supreme Court has essentially rejected his argument. In February, the Court is scheduled to hear oral arguments on the scope of the Commerce Clause in two critical cases that could restrict the geographic jurisdiction of the Clean Water Act to a small fraction of its current coverage.

Standing and Access to Courts: Judge Alito has placed unjustifiable hurdles in front of citizens that are trying to make polluting corporations comply with basic environmental safeguards. His record indicates that he will shut the courthouse doors on citizens who are injured by polluting companies. In *PIRG v. Magnesium Elektron*, Judge Alito overturned a \$2.6 million dollar verdict against a polluter that violated its Clean Water Act permit more than 150 times. In his hearing testimony, Judge Alito refused to acknowledge that the subsequent Supreme Court decision in *Friends of the Earth v. Laidlaw* invalidated the reasoning he employed to deny the plaintiffs their day in court.

Corporate Interests: Judge Alito joined a 2-1 decision to overturn an Environmental Protection Agency emergency cleanup order under the Safe Drinking Water Act for cleaning toxic pollution out of the City of Lansing, Michigan's aquifer – the drinking water supply for 180,000 people

Hearing Testimony: Judge Alito did not alleviate these concerns during his recent hearing before the Senate Committee on the Judiciary.

“Americans depend upon the Supreme Court to uphold and enforce our nation's environmental safeguards,” said Buck Parker, Earthjustice executive director. “After a careful analysis of Judge Samuel Alito’s record, we believe that he would likely side with polluters and against citizens in disputes over environmental protection. Judge Alito’s history indicates that he will choose his own extreme personal beliefs over the enforcement of environmental laws.”

“With smoggy cities, dirty rivers, mercury contaminated fish and other threats, Americans cannot afford to confirm a Supreme Court justice who would unfairly side with polluters,” said Sugameli. “Judge Alito’s nomination must be defeated.”

The 56 groups that signed the letter to the U.S. Senate are: Alaska Center for the Environment, Alaska Wildlife Alliance, Arkansas Nature Alliance, Buckeye Forest Council, Californians for Alternatives to Toxics, Center for Biological Diversity, Center for Native Ecosystems, Citizens for Public Resources, Citizens Progressive Alliance, Clean Water Action Council of N.E. Wisconsin, Inc., Clean Water Action, Colorado Environmental Coalition, Community Rights Counsel, Conservation Northern California Council, Conservation Northwest, Earthjustice, Ecological Conservation Organization, Endangered Habitats League, Endangered Species Coalition, Environmental Law Foundation, Environmental Protection Information Center, Federation of Fly Fishers, Forest Guardians, Friends of the Columbia Gorge, Friends of the Earth, Friends of the Inyo, Gifford Pinchot Task Force, Great Old Broads for Wilderness, Green Delaware, Greenpeace, Heartwood, Kentucky Resources Council, Inc., League of Conservation Voters, Leavenworth Audubon Adopt-a-Forest, McKenzie Guardians, Michigan Nature Association, Missouri Forest Alliance, Musconetcong Mountain Conservancy, National Environmental Trust, Natural Resources Defense Council, Northwest Environmental Advocates, Okanogan Highlands Alliance, Olympic Forest Coalition, Oregon Center for Environmental Health, Oregon Natural Resources Council Fund, Sagebrush Sea Campaign, San Juan Citizens Alliance, Sierra Club, Sierra Student Coalition, Society of Natural Resources Conservation, Soda Mountain Wilderness Council, Southeast Alaska Conservation Council, Valley Watch, Inc., Western Environmental Law Center, Wilderness Society, and Wildlands CPR.

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