

# *About.com Environmental Issues*

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## **Environmental Groups Oppose Alito for Supreme Court**

**By Larry West**

A coalition of leading environmental groups has declared strong opposition to Judge Samuel A. Alito, Jr. in his bid to be the next U.S. Supreme Court justice. This is the first time in nearly 20 years that the environmental community has opposed confirmation of a Supreme Court nominee. The last time was when Judge Robert Bork was nominated in 1997.

**The Sierra Club, Friends of the Earth, the National Environmental Trust, Greenpeace and Earthjustice, a nonprofit, public interest environmental law firm, joined forces to oppose Senate confirmation of Alito, saying that placing him on the Supreme Court would endanger the environment and public health.**

**"America depends upon Supreme Court justices to uphold and enforce our nation's environmental safeguards and to protect the rights of all Americans. We cannot afford to have someone like Judge Alito deciding which rights will be protected, and which will be thrown out," said Buck Parker, Executive Director of Earthjustice. "After a careful consideration of Judge Alito's record, we believe that, if confirmed to the Supreme Court, he would vote to roll back key protections for public health and the environment."**

President George W. Bush nominated Alito to replace Supreme Court Justice Sandra Day O'Connor, who is retiring. U.S. Supreme Court justices are appointed for life. They not only uphold the law, but also help to shape the law by interpreting the U.S. Constitution and ruling on the decisions of the lower courts. If confirmed by the Senate, chances are that Alito, 55, would serve for many years.

### **Alito on the Environment**

While Alito's judicial record does not include many cases that deal directly with environmental issues, the environmentalists oppose his confirmation to the Supreme Court on the basis of his judicial philosophy and his record on broader issues "that threaten both the ability of Congress to pass laws to protect the environment, and the ability of citizens to enforce those laws," according to a statement by the Sierra Club.

In particular, the groups are troubled by Alito's record on judicial standing and the Commerce Clause of the U.S. Constitution.

### **Commerce Clause**

The Commerce Clause is the foundation on which many fundamental environmental laws in the United States are based, including the Endangered Species Act, Clean Water Act, and Clean Air Act. The Commerce Clause in the U.S. Constitution authorizes Congress to regulate activities that affect commerce between the states. Because air, water and wildlife cross state borders, the federal government claims the constitution right to protect them for the benefit of all citizens.

In general, the courts also have ruled that the Commerce Clause allows the federal government to protect wetlands and species that live in only one state, because they have been seen as integral parts of larger ecosystems and important contributors to interstate economic activities such as tourism and medical research.

Environmentalists who have examined Alito's record believe that he has interpreted the Commerce Clause narrowly in some of his past rulings. One of those decisions, related to whether Congress had the right to regulate machine gun possession, was later overturned by the Supreme Court.

"When it comes to the constitutional questions that will determine the ability of Congress to pass environmental laws and the ability of citizens to access courts to enforce them, Judge Alito threatens to drive the Court in a decidedly anti-environment direction," Friends of the Earth said in a statement.

### **Judicial Standing**

In a 1997 case-*Public Interest Research Group (PIRG) v. Magnesium Elektron, Inc.*-Alito supported a very restrictive definition of judicial standing, the test any plaintiffs in a lawsuit must pass before their cases can be heard in court. The environmental groups fear that Alito's position on judicial standing will make it harder for environmental groups and citizens to bring legal action against those who violate environmental laws and damage or threaten public health.

"This nation's environmental laws are the source of federal government's obligation to conserve lands held in the public trust, protect human health and rebuild populations of endangered species," the National Environmental Trust said in a statement. "Justice Alito's published views on the critical issues of citizen access to the courts and the Commerce Clause represent an unacceptable risk to those important commitments."