

## ***SUPREME COURT: Senate confirms Sotomayor, 68-31***

***By Jennifer Koons, E&E Reporter***

The Senate voted 68-31 today to confirm Sonia Sotomayor to the Supreme Court.

There was little doubt of Senate confirmation for President Obama's first high court nominee, as all but a few lawmakers had announced beforehand how they would vote. Nine Republicans voted with the Democrats to confirm the nation's first Hispanic and third female justice to the bench. Sen. Ted Kennedy (D-Mass.) is ailing and did not vote.

During Senate Judiciary Committee hearings earlier last month, Sotomayor touched on key environmental issues, shedding some light on how she would approach cases concerning regulatory takings, the Constitution's Commerce Clause and her views on upholding congressional actions regarding the Clean Water Act.

Sotomayor has received near-unanimous support from national, regional and local environmental groups and the U.S. Chamber of Commerce, the first major business group to back the nominee.

"Environmental cases have gained significant importance in the Supreme Court in the last few years," said Earthjustice President Trip Van Noppen in a statement released after the vote. "During her confirmation hearings, Senators routinely questioned Judge Sotomayor on her perspective on the Clean Water Act and other environmental laws. It is obvious that environmental issues are receiving much more play and will continue to be major Supreme Court issues in the years to come. It is clear that smart and fair judges are essential to safeguarding our nation's environment and the public health."

Sen. Ben Cardin (D-Md.) cited "confidence that she will protect our environment" among the reasons he supported the nominee.

"The *Riverkeeper* case gives me that confidence," Cardin said today in reference to *Riverkeeper v. EPA*, the 2007 case in which Sotomayor's opinion held that the Clean Water Act precluded U.S. EPA from using cost-benefit analysis to determine the best technology available to protect fish from power plant water intakes. In April, the high court reversed that decision in a 6-3 opinion by Justice Antonin Scalia.

Sen. Lindsey Graham of South Carolina was the only Republican on the Judiciary Committee to support Sotomayor. Sen. Charles Grassley (R-Iowa), who repeatedly asked the nominee about her views on environmental cases during his allotted 30 minutes of questioning, explained in a statement why he decided to vote against the judge.

"At her confirmation hearing, I asked specific questions about the property rights of private citizens afforded by the Fifth Amendment," the senator said, referring to his query about the Supreme Court's controversial 2005 decision in *Kelo v. City of New London*, which affirmed the right of local and state governments to take private property for economic development purposes.

Grassley pressed Sotomayor to explain her 2006 decision in *Didden v. Village of Port Chester*, which critics argue applied and extended *Kelo*.

"I was not convinced that Judge Sotomayor understands the rights given to Americans under the Constitution, or that she will refrain from expanding or restricting those rights based on her personal preferences," Grassley said.

Sotomayor will join the court just short of a month before it meets Sept. 9 to hear a campaign finance case. She succeeds Justice David Souter, who retired in June.

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