

SUPREME COURT: Stevens to decide on retirement next month (03/16/2010)

By Gabriel Nelson, E&E reporter

Supreme Court Justice John Paul Stevens has his "options open" for retirement but will make a decision within a few weeks, according to a [story](#) in *The New Yorker*.

The 89-year-old Stevens, who was appointed by President Ford and has become the anchor of the court's liberal wing, told the magazine he was confident in President Obama's ability to fill vacancies.

"You can say I will retire within the next three years," Stevens told the magazine March 8. "I'm sure of that."

Stevens has consistently sided with environmental and conservation interests in cases involving industry. He wrote the majority opinion in *Massachusetts v. EPA*, the 2007 decision authorizing U.S. EPA to regulate greenhouse gases as pollutants under the Clean Air Act.

While environmental groups would lose one of their most reliable supporters, said Glenn Sugameli, a staff attorney at Defenders of Wildlife, they will also lose a justice with "intangibles" -- including a relatively strong rapport with key swing vote Justice Anthony Kennedy. Kennedy joined the majority in *Massachusetts v. EPA*, which provided the legal basis for EPA's emerging effort to curb emissions of carbon dioxide and other greenhouse gases.

"Any change on the Supreme Court could help decide the fate of environmental laws for decades to come. The court is very closely split, 5-4, on a number of major environmental issues," Sugameli said. "A new nominee will obviously be much younger and will likely be around to decide issues that nobody's really even thought of yet."

An open seat on the court would generate immense interest in Congress, as it did last year during the nomination of Justice Sonia Sotomayor. That process could be made more contentious if Stevens retires, because liberals will likely seek a similarly left-leaning judge.

The candidate most widely expected to be in line for a nomination is Solicitor General Elena Kagan, previously the dean of Harvard Law School.

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