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April 20, 2020

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

Supreme Court Overturns Montana State Court Decision Undermining CERCLA

(Atlantic Richfield v. Christian)

“Both the economy and the environment fare best if a well-informed EPA gets to decide how best to restore a Superfund site. The Court’s ruling confirms that, under CERCLA, the EPA indeed makes the final call.”

—Corbin K. Barthold, WLF Senior Litigation Counsel

WASHINGTON, DC—On April 20, the federal Supreme Court reversed a Montana Supreme Court ruling that allowed private landowners to impede the EPA’s efforts to clean one of the nation’s largest Superfund sites.

The Comprehensive Environmental Response, Compensation, and Liability Act—known as CERCLA—empowers the EPA to orchestrate the restoration of sites containing hazardous waste. To ensure that the EPA can clean a site effectively, CERCLA blocks states or private parties from interfering with an EPA-directed site cleanup plan. The Montana Supreme Court nonetheless affirmed an order allowing landowners to seek money for a cleanup plan that conflicts with the EPA-directed cleanup of Montana’s Anaconda Smelter Superfund site.

Although it rejected the petitioner’s argument that the Montana courts lacked jurisdiction even to entertain the case, the federal Supreme Court agreed with the petitioner—and with an *amicus* brief filed by WLF—that the landowners’ suit could not proceed without EPA approval. And, as Justice Alito noted in a concurring opinion, the EPA “has submitted multiple filings indicating that it believes the landowners’ plan presents serious environmental risks.” It is therefore “likely,” he continued, “that the EPA will not approve that plan, and [that] the case will then die.” That outcome will preserve the integrity of the petitioner’s and the EPA’s important work restoring the environment at Anaconda.

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