



SUNRISE MOVEMENT

Stolen Supreme Court Threatens to Undo Decades of Environmental Progress, Thwart Efforts to Address Climate Change

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Climate Change Is An Emergency

Our planet is warming at an unprecedented rate because of greenhouse gas emissions from corporations continuing to burn and profit off of fossil fuels. Across the nation, Americans are suffering because of more frequent extreme weather events — uncontrollable wildfires blaze through the West, droughts emaciate the livestock and kill the crops of America's heartland, and hurricanes, tornadoes, floods and more claim lives and damage property each year.

And these disasters will only get worse if we do not reign in the corporations responsible for the overwhelming majority of emissions. The science is clear: as a nation and world, we need to take bold action to reduce emissions, protect our forests and natural resources, and help our communities adapt to a warming planet — especially those at the frontlines of the climate crisis who have contributed the least emissions but experience some of the worst impacts. In addition to new legislation, America will need to rely on its existing cornerstones of environmental protections to enact and administer the next wave of necessary climate regulations. Notably, these include the Environmental Protection Agency and the Clean Air Act.

Environmental Protections Are Successful and Extremely Popular

For more than 50 years, the Environmental Protection Agency and the Clean Air Act have been the cornerstones of our country's environmental protections. Mass popularity and bipartisan support have driven these pillars of environmental protection from their inception. The Environmental Protection Agency was created by Republican President Richard Nixon in 1970 with the approval of a Democratic Congress. And the Clean Air Act, originally enacted in 1963 after passing the Senate with a whopping 73-0 vote, has been strengthened and expanded over the last five decades with overwhelming majorities. Even Mitch McConnell and

Newt Gingrich voted for the 1990 amendments, which ultimately passed with 89 Senate votes, 401 House votes,

Together, the Clean Air Act and EPA have:

- Reduced national emissions by 63% between 1980 and 2015
- Lowered toxic air pollutant levels including lead, arsenic and carbon monoxide
- Repaired the ozone layer by reducing CFCs
- Reversed the smog and acid rain crises of the 1980s and 1990s
- Prevented 230,000 early deaths and averted 120,000 emergency room visits in 2020 alone
- Saved 5.4 million potential lost school days for students who otherwise would suffer debilitating respiratory illness in 2020
- Created human health and other benefits that exceed the costs by a 30-1 ratio

and the signature of a Republican president. These administrative and legislative protections have worked to protect the health of Americans, lower emissions, and administer incentives to protect our natural resources for half a century. Americans benefit from these protections and want them strengthened. **Two-thirds of Americans want the federal government to do more to protect air quality, reduce emissions, tackle global climate change, and protect lakes, rivers, and streams.**

The Coal Industry & Republican Politicians Have Tried to Gut These Protections

Despite overwhelming bipartisan support for strengthening these environmental safeguards that have protected us for over half a century, Republicans funded by oil, coal, and other high pollutant industries have tried to gut the Clean Air Act. Attempts to cut the EPA's budget or weaken environmental laws have generally gone nowhere because the agency has enormous popular support among the public. In 2017, Matt Gaetz introduced a bill to eliminate the EPA entirely, but the bill went nowhere.

The Supreme Court is Poised to Gut Environmental Protections

In 2015, congressional Republicans tried to block the Clean Power Plan, which is promulgated under the Clean Air Act. The attempt failed, so oil companies and Republican state attorneys general turned to the courts instead, filing suits attacking the Clean Power Plan. In 2016, the Supreme Court came to the Republicans' aid, and blocked the EPA

from implementing the Clean Power Plan until these lawsuits had concluded. It was the first time in history that the Supreme Court blocked a regulation before it had been reviewed by lower federal courts.

Now, the Supreme Court has agreed to hear a case brought by coal companies and their Republican allies — one that threatens the very core of our environmental protections. In *West Virginia v. EPA*, the Court will hear arguments by fossil fuel companies and Republican ideologues who want to prevent the EPA from using its authority to regulate emissions under the Clean Air Act. And the Court is poised to issue a decision that could severely strip the EPA of its authority and ability to protect the environment and public health.

Unlike Congress, the unelected Republican supermajority on the Court has nothing to fear from gutting the environmental protections that have garnered public support for decades. Its members — five of whom were appointed by a Republican president who lost the popular vote — enjoy life terms and are not accountable to the public. In their decisions to gut the Voting Rights Act, the conservative justices have already shown they are willing and eager to tear down laws that are fundamental to upholding American democracy and the basic role of government in serving the public.

By agreeing to hear *West Virginia v. EPA*, the Supreme Court's Republican supermajority has created an opportunity for itself to hollow out the Clean Air Act and render the EPA impotent. Agreeing to take the case is an aggressive, political move — no current EPA regulations implicate the legal questions at play in this suit.

Taking this case signals that the Court is hand-picking cases that present the best opportunities to advance its right-wing agenda.

For right-wing extremists, the case presents a unique opportunity to fundamentally change the nature of environmental and administrative protections. Neil Gorsuch has made known his desire to overturn decades-old *Chevron* precedent so that courts would no longer need to defer to government agencies like the EPA in interpreting laws, concentrating power in the judiciary and stripping it from the legislative and executive branches. And both Gorsuch and Clarence Thomas also want to resurrect the nondelegation doctrine, which was judicially created and lasted exactly one year (1935), which would dramatically weaken federal agencies like the EPA — effectively amounting to the Court dictating and limiting how much authority Congress can give to agencies like the EPA. Ultimately, the unelected Supreme Court is poised to give itself more power over deciding which democratically-enacted environmental protections are worth protecting.

An Adverse Ruling Would Have Catastrophic Consequences

If the Court chooses to issue an adverse ruling in *West Virginia v. EPA*, the environmental consequences would be disastrous. Overturning *Chevron* precedent would give unelected federal judges across the country unprecedented ability to strike down or limit environmental regulations. Because of the conservative lean of the federal judiciary, many environmental protections that we rely on for human health and flourishing would be struck down. And if nondelegation is

resurrected, it would effectively block the EPA from functioning at a basic level. Decades of environmental progress — and the tools we need to meet the environmental challenges of the future — would be reduced to nothing by the power of six unelected people.

We Need Court Expansion TODAY to Save and Strengthen Environmental Protections

Both the Clean Air Act and the EPA's authority have decades of Supreme Court and lower court precedent to back up their validity. A truly legitimate, neutral Court would never consider reversing settled law backed by the vast majority of Americans. But this Court is not legitimate and is far from neutral. Its 6-3 Republican split was

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garnered by extreme partisan engineering by the GOP, who refused to consider Obama's nominee in 2016, and then rushed to confirm Barrett after 60 million Americans had cast their ballots in 2020. The current Court was molded by and exists to serve a very specific segment of Republican elites, coal companies, and high polluting industries.

Expanding and rebalancing the Court is the only way to ensure that the illegitimate Republican supermajority on the Supreme Court does not succeed in reversing a half-century of progress. The vast majority of Americans want our country to do more for the health of our people and our environment. The challenges of climate change, the devastation of extreme weather events, and the existential threats to the livability of the planet demand bold action. We cannot let the current Court continue to stand in the way. Congress must pass the Judiciary Act to immediately expand the Court.

