

Counsel

FRI, ACTING ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY v. SIERRA CLUB
ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

No. 72-804. Argued April 18, 1973—Decided June 11, 1973

Affirmed by an equally divided Court.

Deputy Solicitor General Wallace argued the cause for petitioner. With him on the briefs were *Solicitor General Griswold*, *Assistant Attorney General Frizzell*, *Harriet S. Shapiro*, *Edmund B. Clark*, and *Martin Green*.

Bruce J. Terris argued the cause for respondents. With him on the brief were *Helen C. Needham*, *Nathalie Vayssie Black*, and *James W. Moorman*.*

*Briefs of *amici curiae* urging reversal were filed by *Mark Wilmer*, *Rex E. Lee*, *Gary K. Nelson*, Attorney General, *J. A. Hughes*, *John Conway*, *William Duncan*, *Gordon Pearce*, *Richard G. Campbell*, *Lawrence V. Robertson, Jr.*, and *Donald E. Dickerman* for the State of Arizona and Ten Named Public Utilities; by *Andrew P. Miller*, Attorney General, and *C. Tabor Cronk*, Assistant Attorney General, for the Commonwealth of Virginia; by *Milton A. Smith* and *Stanley W. Schroeder* for the Chamber of Commerce of the United States; by *Cameron F. MacRae*, *G. S. Peter Bergen*, and *Henry V. Nickel* for the Edison Electric Institute; and by *Edward A. McCabe*, *Lawrence P. Sherfy*, and *David W. Miller* for the American Mining Congress.

Briefs of *amici curiae* urging affirmance were filed by *Evelle J. Younger*, Attorney General, *pro se*, *Robert H. O'Brien*, Assistant Attorney General, and *Nicholas C. Yost*, *Anthony M. Summers*, and *C. Foster Knight*, Deputy Attorneys General, for the Attorney General of California; by *William J. Scott*, Attorney General, *Fred F. Herzog*, First Assistant Attorney General, and *Harvey M. Sheldon*, Assistant Attorney General, for the State of Illinois; by *Frank J. Kelley*, Attorney General, *Robert A. Derengoski*, Solicitor General, and *Jerome Maslowski*, *Stewart H. Freeman*, and *Charles S. Alpert*,

PER CURIAM.

The judgment is affirmed by an equally divided Court.

MR. JUSTICE POWELL took no part in the decision of this case.

Assistant Attorneys General, for the State of Michigan, joined by *Warren Spannaus*, Attorney General, and *Curtis D. Forslund*, Solicitor General, for the State of Minnesota; by *Louis J. Lefkowitz*, Attorney General, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Philip Weinberg* and *James P. Corcoran*, Assistant Attorneys General, for the State of New York; by *John L. Hill*, Attorney General, *Larry F. York*, First Assistant Attorney General, and *Mike Willatt*, *Phil Maxwell*, and *Troy C. Webb*, Assistant Attorneys General, for the State of Texas; by *David L. Norvell*, Attorney General, for the State of New Mexico, joined by the Attorneys General for their respective States as follows: *William J. Baxley* of Alabama, *Robert Killian* of Connecticut, *Robert L. Shevin* of Florida, *Vern Miller* of Kansas, *William J. Guste, Jr.*, of Louisiana, *Jon A. Lund* of Maine, *Robert H. Quinn* of Massachusetts, *Louis J. Lefkowitz* of New York, *Robert Morgan* of North Carolina, *William J. Brown* of Ohio, *Lee L. Johnson* of Oregon, *Israel Packel* of Pennsylvania, *Kermit A. Sande* of South Dakota, *John L. Hill* of Texas, and *Kimberley B. Cheney* of Vermont; by *Norman Redlich* for the cities of New York and Boston; by *Alfred S. Forsyth* for the Association of the Bar of the city of New York; by *David H. Getches* for the Jicarilla Apache Tribe of Indians et al.; and by *Neal A. Jackson*, and *James F. Bromley* for Natural Resources Defense Council, Inc., et al.