

SUPERFUND

Trump admin backs smelter owner in Supreme Court showdown

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The Anaconda Smelter stack and surrounding Superfund area in Montana. Butte Citizens' Technical Environmental Committee

The Trump administration is backing the owner of a Superfund site against its neighbors in a Supreme Court battle that could affect environmental cleanups across the country.

In a [brief](#) yesterday, Solicitor General Noel Francisco urged the high court to scrap a set of challenges Montana landowners filed to force Atlantic Richfield Co. to pay for restoration work at the Anaconda Smelter Superfund site.

The former copper processing site left arsenic and other hazardous substances in soil and water, earning the 300-square-mile surrounding area one of the nation's first Superfund site designations. EPA is overseeing a cleanup under the Superfund law — the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA.

But landowners in the central Montana area went to state court to get Atlantic Richfield to pay for additional work that goes beyond EPA's plan. When Montana judges allowed the case to move forward, the company took the issue to the Supreme Court, arguing that the case would interfere with the Superfund cleanup process, which gives EPA the final say on how to restore sites.

In its own brief last week, the BP PLC subsidiary said allowing landowners to pursue legal claims outside the Superfund process "opens the door for thousands of private individuals to select and impose their own remedies at CERCLA sites at a potential cost of many millions of dollars per site" ([Greenwire](#), Aug. 22).

The Trump administration initially recommended that the Supreme Court decline to review the case because it hasn't fully worked its way through state courts yet ([Greenwire](#), May 1).

But the Supreme Court ignored the recommendation and, in June, agreed to add the case to its docket.

In this week's brief, government lawyers sided with Atlantic Richfield and stressed that "the particular claims for restoration damages asserted by respondents in this case are preempted because they conflict with the particular remedy selected by EPA."

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