

The Burger Court Opinion Writing Database

Andrus v. Sierra Club

442 U.S. 347 (1979)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

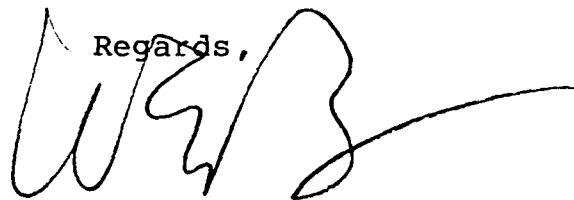
June 5, 1979

Re: 78-625 - Andrus v. Sierra Club

Dear Bill:

I join.

Regards,



Mr. Justice Brennan

Copies to the Conference

No. 78-625

From: Mr. Justice Bren

WJ
PL
Cecil D. Andrus, Secretary
of the Interior, et. al.
Petitioners,
v.
Sierra Club, et. al.

Circulated: 25 MAY 1979
On Writ of Certiorari to
the United States Court of Appeals for the
District of Columbia
Circuit

[June ___, 1979]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question for decision is whether § 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 83 Stat. 852, 42 U.S.C. § 4332(2)(C), requires federal agencies to prepare environmental impact statements (EISs) to accompany appropriation requests. We hold that it does not.

I

NEPA sets forth its purposes in bold strokes:

"The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation" 42 U.S.C. §4321.1/

Congress recognized, however, that these desired goals could be incorporated into the everyday functioning of the federal

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 29, 1979

Re: No. 78-625, Andrus v. Sierra Club

Dear Lewis,

In order to correct any uncertainty, I have altered
footnote 22 to read:

22. For example, if an agency were to seek an appropriation
to initiate a major new program that would significantly
affect the quality of the human environment, or if it were
to decline to ask for funding so as to terminate a program
with a similar effect, the agency would have been required
to include EISs in the recommendations or reports on the
proposed underlying programmatic decisions.

I hope this clears up any possible ambiguity.

Sincerely,



Copies to the Conference.

Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice O'Connor

Chief Justice: Warren E. Burger

Associate Justice: William H. Rehnquist

Associate Justice: John Paul Stevens

Associate Justice: Thurgood Marshall

Associate Justice: William J. Brennan, Jr.

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-625

Cecil D. Andrus, Secretary of the Interior, et al., Petitioners,
v.
Sierra Club et al. } On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

[June —, 1979]

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¹ Section 101 (b) articulates these purposes with even greater particularity:

"In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

2-17

To: The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mrs. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice Brennan

Circulated: _____

Recirculated: 6 JUN 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-625

Cecil D. Andrus, Secretary of the Interior, et al., Petitioners
 v.
 Sierra Club et al.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

[June —, 1979]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

May 29, 1979

Re: 78-625 - Andrus v. Sierra Club

Dear Bill:

I am glad to join your opinion for the
Court.

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 29, 1979

Re: No. 78-625 - Andrus v. Sierra Club

Dear Bill,

I join, although perhaps footnote 22
could stand some verbal changes.

Sincerely yours,



Mr. Justice Brennan

Copies to the Conference

cmc

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 29, 1979

Re: No. 78-625 - Andrus v. Sierra Club

Dear Bill:

Please join me.

Sincerely,

J.M.
T.M.

Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 31, 1979

Re: No. 78-625 - Andrus v. Sierra Club

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 26, 1979

78-625 Andrus v. Sierra Club

Dear Bill:

Please join me in your fine opinion.

I do suggest that you take another look at note 22 which could be construed, I believe, as possibly inconsistent with the text. The phrases "seek an appropriation to" and "decline to ask for funding" create - at least for me - this possible ambiguity.

As the text of the opinion will control over a note, my join is not conditioned upon clarifying note 22 - although I would prefer it.

Sincerely,



Mr. Justice Brennan

1fp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 29, 1979

78-625 Andrus v. Sierra Club

Dear Bill:

Your revision of footnote 22 is satisfactory with
me.

Many thanks.

Sincerely,



Mr. Justice Brennan

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 30, 1979

Re: No. 78-625 - Andrus v. Sierra Club

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 29, 1979

Re: 78-625 - Andrus v. Sierra Club

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Brennan

Copies to the Conference