

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,

A handwritten signature in dark ink, appearing to be 'WB', with a long horizontal flourish extending to the right.

Mr. Justice Brennan

Copies to the Conference

SUPREME COURT OF THE UNITED STATES

Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

No. 78-625

From: Mr. Justice Brennan

W
 PH
 Cecil D. Andrus, Secretary
 of the Interior, et. al.
 Petitioners,

v.

Sierra Club, et. al.

Circulated: 25 MAY 5

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

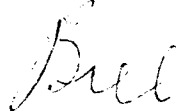
Dear Lewis,

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.

10. The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Brennan
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan

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 Dis- trict of Columbia Circuit.
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¹Section 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
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Brennan

2nd DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES

Recirculated: 15 JUN 1979

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 Dis- trict of Columbia Circuit.
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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,

JM
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,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath.

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

lfp/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,

Lewis

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

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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