

Recent Significant Environmental Justice Decisions

An April 19, 2001 ruling, a federal district court judge suspended for thirty (30) days, a permit for a new cement facility based upon violations of Title VI of the Civil Rights Act. The judge cited failure of the New Jersey Department of Environmental Protection to consider the cumulative environmental burden already borne by this impoverished community and the racial and ethnic composition of the population. The ruling is the first to actually overturn an environmental permit on environmental justice claims. The company's options are unclear at this time, given the fact that the ruling is against the state permitting authority and not the operating facility. ([South Camden Citizens in Action v. New Jersey Department of Environmental Protection](#), D.N.J., No. 01-702, 4/19/01).

Less than a week later, the U.S. Supreme Court ruled that private parties cannot sue states to prevent violations of federal disparate-impact regulations under Title VI of the Civil Rights Act. In the April 24, 2001 ruling, the 5-4 high court immediately invalidated the *South Camden* decision and took away one of the key weapons that private parties use to bring actions against state authorities for permitting decisions they said brought disproportionate environmental impact on low-income or minority Americans. In a decision written by Justice Antonin Scalia, the court ruled that only federal agencies may sue states for disparate impact. Private citizens may sue states only under Section 601 of the civil rights law, which requires parties to show intentional discrimination, not just the discriminatory effects of a state action, the court held. ([Alexander v. Sandoval](#), U.S. , No. 99-1908, 4/24/01).

In spite of the recent Supreme Court ruling in *Alexander v. Sandoval*, the residents of South Camden, N.J., can continue to assert their disparate impact claims against state regulators who issued an air pollution permit for a facility in their neighborhood, the U.S. District Court for the District of New Jersey ruled May 10. The court said that a civil rights action under 42 U.S.C. § 1983 is an appropriate vehicle for private individuals to enforce regulations federal agencies issued to implement Title VI of the 1964 Civil Rights Act. The district court acknowledged the U.S. Supreme Court's April 24 ruling in *Alexander v. Stoval*, 69 U.S.L.W. 4250 (U.S. 2001), which found Title VI provides no private right of action to enforce the disparate impact regulations, but found the high court's decision does not foreclose a Section 1983 action to achieve the same end. ([South Camden Citizens in Action v. New Jersey Department of Environmental Protection](#), D.N.J., No. 01-802, 5/10/01)

The firm has obtained a copy of the decisions (in .pdf format) which can be found on our Web site at www.NPJP.com or by requesting a copy from one of our Environmental Practice Group attorneys at 803/771-8900.