



10-1974

Train v. Natural Resources Defense Council

Lewis F. Powell Jr.

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*Awant Discussion
(I'm in doubt)*

CAS disapproved EPA action in
approving a state implementation plan
that allowed "variances" - it is argued
w/o complying with stricter Fed. Act standards
as to variances.

Circuit conflicts
would appear to raise
orderly administrative
problems for EPA.

GRANT

King

DISCUSS

*If one looks at this
from the standpoint of
proper statutory construction,
I think CAS is correct.
The EPA's interpretation of the
statute is a whole cloth invention.
I would deny.*

*B (I say this without partiality
to the panel below)
I will talk to
you about this
if you want.*

June 7, 1974 Conference
~~Supplemental List~~
List 3, Sheet 2

No. 73-1742
(A-1120)

TRAIN, Admin'r EPA

v.

NATURAL RESOURCES
DEFENSE COUNCIL, INC.

Application for Stay. Presented
to Mr. Justice Powell and by Him
Referred to the Court.

IMMEDIATE SITUATION: CA 5 (Wisdom, Dyer, Ingraham) held
that EPA's approval of the Georgia plan for achieving the national ambient
air quality standards required by the Clean Air Act Amendments of 1970
(the Act) violated the Act to the extent that the plan authorizes the state to
grant variances without complying with the postponement provisions of
section 110(f) of the Act, 42 U.S.C. § 1857c-5(f). The CA ordered EPA to

publish forthwith its disapproval of this section of the Georgia plan and denied a stay. The SG, citing a conflict with decisions of the 1st, 2nd and 8th circuits and the need for orderly administration of the Act, seeks a stay pending disposition of a petition for cert filed herewith.

Mr. Justice Powell requested a response and has referred the application to the Court.

FACTS: Under the Act, EPA has exclusive responsibility for establishing national ambient standards, while the states have primary authority, subject to EPA review, for establishing their own "implementation plans" to achieve those standards. EPA reviews the state plans to assure that they meet basic statutory requirements, including (1) the attainment of the national primary standards "as expeditiously as practicable" but in no case later than three years after the date of the approval of the plan [in most cases by mid-1975]; (2) the attainment of secondary standards within a "reasonable time" to be specified by each plan. Each plan must include emission limitations, schedules, and timetables for compliance with the limitations.

Georgia met the January 31, 1972 deadline for submission of its implementation plan and, on May 31, 1972, EPA approved the plan in all respects material here. One provision of the approved plan authorizes Georgia officials to grant variances from the requirements of the state's implementation plan.

Resps sought review of the EPA order approving the Georgia plan in CA 5. They raised four objections to the plan, including the

objection that the variance provision circumvents the provisions of 42 U.S.C. 1857c-5(f), which, they argue, Congress intended to be the exclusive mechanism for granting variances from requirements of state implementation plans. CA 5 agreed and ordered EPA to disapprove this portion of the Georgia plan. [The CA also agreed with resps' other objections and ordered EPA to disapprove other provisions. However, the Government is not seeking cert on these matters and the instant application seeks a stay only with respect to the CA's ruling on the variance provision.]

RATIONALE OF CA: The relevant part of the CA opinion is contained at pages 14a-27a of the Government's cert petition.

Section 1857c-5(f) (petn at 62a) speaks in terms of "postponements" of the effective dates of the requirements of implementation plans. The section provides that "[p]rior to the date on which any stationary source . . . is required to comply with any requirement of an applicable implementation plan," EPA may grant a postponement of no more than one year of the effective date of the requirement. Section 1857c-5(f) requires that the Governor of the state apply to EPA for such a postponement. The criteria for granting a postponement are strict and the section provides that affected parties must be afforded an opportunity to be heard; EPA must make a statement of its findings and conclusions; and judicial review is authorized in the appropriate CA.

CA 5 found that the standards and procedures of section 1857c-5(f) are far more restrictive than those of the Georgia variance provision and

that Congress intended to make "variances," "postponements," or "whatever departures from earlier commitments might be called," unusual and difficult to obtain. Accordingly, the CA found the Georgia variance procedures inconsistent with the Act and that EPA had exceeded its authority in approving those provisions of the state plan.

Noting that section 1857c-5(f) speaks in terms of "any stationary source," and of the postponement of "any requirement of an applicable implementation plan," the CA rejected the Government's interpretation that the section is intended to apply only when the source in question is so large or has such serious effects that granting a postponement to that individual source will, by itself, threaten the attainment of a national ambient air standard. The Government's theory is that the states have the authority to grant variances under section 1857c-5(a)(3) (petn at ^{57a} ~~57~~), which provides for "revisions" by the states of their implementation plans. The Government argued that each time a state grants an individual variance not sufficient to threaten attainment or maintenance of a national standard, it is merely "revising" its implementation plan. The CA, however, rejected the "revision" theory, distinguishing between a revision which the CA understood to be a change in a generally applicable requirement and a "postponement or variance" which the CA defined as being a change in the application of a requirement to a particular party. The CA found it clear that it was this distinction Congress had in mind when it simultaneously adopted sections 1857c-5(f) and 1857c-5(a)(3).

The CA also rejected the interpretation of 1857c-5(f) by CA 1 in upholding EPA's approval of variance provisions in both the Massachusetts and Rhode Island plans. CA 1 ruled that while state variance procedures could not be employed during what it labelled the "post-attainment" [of national standards] period, such procedures were permissible during the "pre-attainment" period because the statute anticipates greater flexibility during the pre-attainment period. CA 5 was unable to find such flexibility in the statute. While CA 1 [and later CA 2 and 8] saw value in permitting a state to impose strict standards now, subject to variances if practicability warrants, instead of being forced to adopt less stringent limitations in order to accommodate those who are as yet unable to comply, CA 5 found that the plan of the statute was to secure ambitious commitments at the planning stage, and then, by making it difficult to depart from those commitments, to assure that departures would be made only in cases of real need.

CONTENTIONS: (a) The SG suggests that it is manifest that CA 5's interpretation of section 1857c-5(f) is in error since that section permits a maximum postponement of only one year whereas the Act envisages that expeditious progress may take as long as five years. The SG also contends that the CA's interpretation discriminates against those states who have adopted ambitious commitment plans while favoring those states, such as Florida, which have set compliance deadlines at the latest possible date allowed by the Act. Conceding that taken out of context the language of section 1857c-5(f) supports CA 5's holding, the

SG argues that the construction of the section by CAs 1, 2 and 8 is a reasonable and workable solution to the complex ambiguities of the Act and that EPA is conforming its regulations and procedures to this construction of the statute.

The SG contends that the decision of CA 5 if not stayed would disrupt the orderly administration of the Act, would disrupt and burden the affected states [apparently the Mississippi and Alabama plans also have variance provisions] and would discriminate against industries located in those states. Unless the judgment is stayed, EPA will be unable to approve some 1,400 variances now pending and, if this happens, continued emissions by those sources will be illegal until such time as the states and EPA have been able to reprocess these applications in conformity with 1857c-5(f).

(b) Resps contend that this case does not present an appropriate situation for granting a stay in that (1) a stay would amount to a judgment on the merits because it would allow EPA to approve thousands of variances that are illegal under the CA ruling and this would alter the status quo dramatically; (2) the variances which EPA now seeks to approve apply to sources which failed to obtain variances for at least two years after they became subject to state requirements; (3) the proposed "blanket variances" are not necessary if any genuine cases of inequity do exist because both EPA and the states have enforcement discretion; (4) a stay would permit EPA to approve variances going beyond the limits imposed by CAs 1, 2 and 8; (5) allowing EPA to approve variances would encourage

unnecessary and wasteful litigation because resps would have to contest any of the variance approvals EPA wishes to promulgate in CA 5; and (6) a stay would not increase polluters' certainty about their obligations.

DISCUSSION: This case appears to present a close and significant question of statutory construction.

Especially since it appears that CA 5's ruling will affect other states in CA 5 as well as Georgia, the SG's argument that the ruling will be disruptive to the orderly administration of the Act would seem to have merit. Another consideration, one not raised by the SG but suggested from the arguments, is that the affected states might seek revision of their plans, extending their compliance timetables to the latest date permitted by the Act. From a public policy standpoint, this would appear undesirable.

There is a response.

Ginty

Cert petn attached to application. Op and statutes in petn.

6/4/74

DK

MOTION

Stay
granted

[illegible]

Grant
(imp. case - also
a conflict.)

A difficult Clean Air Act case
in which CA 5 invalidated Ga. statute
implementing "second phase" of the ^{Granted 10/8}
Fed. Act's plan. ~~Reinstated, conflict~~
EPA has prescribed "ambient air quality
standards: (1) "primary standards" to
protect public health, & (2) "secondary
standard" to protect public welfare. The
implementation plans to control individual
sources (plants, municipalities, etc) are
left to states, subject to review by EPA.
Ga's implementation plan was approved
by EPA. It provided for "variances" to

PRELIMINARY MEMO avoid or minimize

Summer List No. 7, Sheet 3

No. 73-1742

TRAIN, Adm'r, Environmental
Protection Agency

(SG)

v.

NATIONAL RESOURCES DEFENSE
COUNCIL, INC., ET AL.

(An Environmental Group)

Cert to CA 5

(Wisdom, Dyer, Ingraham)

Federal/Civil

Timely

with stricter procedure
for variances in Act.

1. SUMMARY: This case presents the question whether, in reviewing

state implementation plans under the Clean Air Act and Clean Air Amendments

of 1970, petr EPA (through petr Train) must disapprove provisions in those plans

which authorize the states to grant interim variances prior to the effective date

of the Act's mandatory deadlines.

literal

CA 5's interpretation of Act may
be correct. Leg. history is
uninformative. But SG points
out the serious economic &
even unemployment consequences
of CA 5's holding.

GRANT
DB

This is
important to
administration
of Clean Air
Act, and the
circuits are
split
D.B.

2. FACTS: The Clean Air Act Amendments of 1970 establish a program for controlling air pollution that involves two phases of standard-setting. The first phase, the setting of "ambient air quality standards," is the exclusive responsibility of petr EPA; under 42 U.S.C. § 1857c-4(a), the Administrator of petr EPA is required to promulgate two sets of standards for all so-called "criteria pollutants" -- "primary" standards necessary to protect the public health, and "secondary" standards necessary to protect the public welfare from any known or anticipated adverse effects -- within 120 days from the enactment of the Amendments. The second phase, the establishment through implementation plans of specific controls enforceable against individual sources of emissions, is left to the states, subject to review by petr EPA. It is the second phase that is the subject of this litigation. Under 42 U.S.C. § 1857c-5, the states must prepare and submit implementation plans within 9 months of the promulgation of the national ambient standards. The Administrator then reviews the plans to ensure that they guarantee the attainment of the national primary standards "as expeditiously as practicable," but in no case later than 3 years after the date of the approval of the plan, and the attainment of the secondary standards within a "reasonable time" to be specified by each plan. The Clean Air Amendments were enacted on 12/31/70. Exactly 120 days later, petr EPA promulgated the national ambient standards for the six categories of "criteria pollutants." Within the nine-month deadline, Georgia submitted an implementation plan (consisting of various statutory provisions) which was approved by the Administrator in respects relevant here. Resps docketed a petition for review, in CA 5 within the 30-day period allowed by 42 U.S.C. § 1857h-5(b).

*Second
phase
is here
involved*

They raised four objections to the Administrator's action on the Georgia plan. Three of those objections, including that involved here, were found meritorious by CA 5, which ordered the Administrator to publish his disapproval of sections of the plan incorporating the provisions in dispute; as to one objection, CA 5 remanded to the Administrator for an administrative determination of a question dispositive of the issue. The SG seeks cert only on the issue of petr Train's authority to approve state plans providing a mechanism for the grant of variances prior to the effective date of the Act's mandatory deadlines, which is discussed below.

3. DECISION BELOW: Before CA 5, resps objected to a Georgia statute, Ga. Code. Ann. § 88-912, empowering the State Department of Public Health to grant variances from "the particular requirements of any rule, regulation or general order" in a number of circumstances: if the Department finds that "strict compliance . . . is inappropriate because of conditions beyond the control of the . . . persons . . . granted such variances"; if it finds "special circumstances which would render strict compliance unreasonable, unduly burdensome, or impractical"; and if it finds that "strict compliance would result in substantial curtailment or closing down of . . . businesses, plants or operations." The statute specifies the procedures to be followed when variances are granted, including hearings upon the denial or grant of a variance for persons aggrieved. Resps argued that the statute circumvented the provisions of 42 U.S.C. § 1857c-5(f), which allows the Administrator to grant a "postponement" of the effective date of an implementation plan "[p]rior to the date on which any stationary source . . . is

required to comply with any requirement of an applicable implementation plan," if the Governor of the State makes application, and if the Administrator determines (1) that "good faith efforts have been made to comply with such requirement"; (2) that the source "is unable to comply . . . because the necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time"; (3) that "any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health"; and (4) that "the continued operation of such source is essential to national security or to the public health or welfare." The section imposes procedural requirements for the granting of a postponement, including the opportunity for a hearing, a statement by the Administrator of his findings and conclusions, and judicial review. Noting that the standards and procedures of § 1857c-5(f) are far more restrictive than the counterpart standards and procedures of the Georgia statutory provision, CA 5 accepted resps' contention that Congress intended that the section apply to all requests to change the application of particular requirements of state implementation plans after the adoption of the plans. The court found nothing in the statute to support petr EPA's assertion that the "postponement" section was limited to situations involving sources so large that a single variance would threaten the attainment of a national ambient standard, noting that it speaks of "any stationary source" and of the postponement of "any requirement of an applicable implementation plan." Moreover, it rejected petr EPA's argument that states have the power to grant variances under § 1857c-5(a)(3), which provides for "revisions" by the states of their implementation plans, subject

to EPA review to determine whether the plan as revised still meets all the requirements of the statute. "A revision is a change in a generally applicable requirement; a postponement or variance a change in the application of a requirement to a particular party. The distinction between the two is familiar and clear." CA 5 supported its interpretation by noting that § 1857c-5(f), in making variances unusual and difficult, was consistent with the overall scheme of the Clean Air Act Amendments, which were designed "to force technology to catch up with the newly promulgated standards." Finally, CA 5 rejected the approach of Natural Resources Defense Council v. EPA, 478 F.2d 875 (CA 1), where CA 1 held that while a state variance procedure was impermissible in the period after the date set for the initial attainment of the national ambient air standards, it was permissible during the period preceding those dates. See also Natural Resources Defense Council v. EPA, 483 F.2d 690 (CA 8). CA 5 reasoned that, in concluding that the statute "anticipates greater flexibility during the pre-attainment period," CA 1 failed to distinguish between ambient standards, as to which the conclusion was valid (witness the three-year grace period), and emission standards. As to the latter, CA 5 found no support for CA 1's interpretation anywhere in the statute.

4. CONTENTIONS: The SG argues that it was only because of the original interpretation by petr EPA that § 1857c-5(f) does not apply to all exceptions, but only to those that would affect the ability of the State to achieve the national standards within the mandated time periods, that many states included in their implementation plans emission standards having immediately effective dates as to all sources, and that the decision below will disrupt the orderly administration

of the Act and the economics of those states in CA 5 who relied on their power to grant variances. ^{SG} He points to the rigorous and time-consuming requirements of § 1857c-5(f) and adduces in comparison that § 1857c-5(a)(3), under which petr EPA has been treating variances as "revisions", requires only that the agency publish the proposed variance in the Federal Register, receive public comments, and determine that the variance is consistent with the requirements applicable to the original plan. Noting that petr EPA has departed from its original interpretation and adopted that of CA 1 in National Resources Defense Council v. EPA, supra, the SG argues that that interpretation, although "solomonesque," is consistent with the legislative history of the Clean Air Amendments of 1970, which is thought to suggest that Congress intended to require the states to employ the complex "postponement" procedure "only when the mandatory three-year deadline would be affected." Conceding that certain language in the Act, taken out of context, supports the decision below, the SG suggests that the "ambitious commitments" stressed by CA 5 in concluding that its interpretation of §1857c-5(f) comported with the overall scheme were obtained in many cases "because of the existence of variance authority which made those commitments feasible during the transition stage." Finally, the SG notes that the decision below is in conflict with the decisions of CA 1 and CA 8 adverted to above, and with National Resources Defense Council v. EPA (CA 2, 3/13/74).

~~Resps support the granting of the writ because of a clear conflict among~~
the Circuits. They point out, however, that all four Circuits have rejected petr EPA's original view that the "postponement" section applies only upon a finding

by the State that the requested variance would prevent the attainment or maintenance of a national standard, and thus that the only issue is the date on which state variance procedures are preempted. On the merits, resps argue that CA 5's interpretation is supported by the clear language of the statute and legislative history, whereas CA 1's admittedly "solomonesque" decision represents a compromise that is unsupported either by the statute or its legislative history. They give short shrift to petrs' claim that the CA 5 decision will disrupt the administration of the federal program, calling it "an appeal to the lawless notion that the courts and the Congress have no power to redress illegal conduct undertaken by the executive branch."

5. DISCUSSION: The issue in this case is important to the administration of the Clean Air Act Amendments of 1970, and there is a clear conflict among the Circuits. On the merits, there seems to be as large a chicken and egg problem in the argument of the SG as he imputes to CA 5. Thus, is it a legitimate consideration in the process of statutory interpretation to take into account administrative problems which would result from a certain interpretation, when those problems are caused by reliance of the regulated on a putatively erroneous interpretation by the administrator? CA 5's rather literal reading of the statute, in the absence of any persuasive legislative history to the contrary (and the SG has presented none) seems necessary unless courts are free to help Congress and the states out of the difficulties caused by legislation which has proved too idealistic, by resort to "solomonesque" compromises. On the other hand, there is ^{force} in CA 1's reasoning, 478 F.2d at 887, that there is "value in permitting a state to impose strict emission limitations now,

subject to individual exemptions if practicability warrants; otherwise it may be ^{state} forced to adopt less stringent limitations in order to accommodate those who, notwithstanding reasonable efforts, are as yet unable to comply." In light of the fact that petr EPA professes to have abandoned its original interpretation of § 1857e-5(f) (although resps claim that it has not rescinded the regulation), little weight should be given to any supposed administrative expertise.

There is a response.

Burbank

CA 5 Op in appx

7/30/74

JA

Conference 10-7-74

Court CA - 5

Voted on....., 19...

Argued, 19...

Assigned, 19...

No. 73-1742

Submitted, 19...

Announced, 19...

RUSSELL E. TRAIN, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL., Petitioners

vs.

NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.

5/20/74 Cert. filed.

Granted

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		AB- SENT	NOT VOT- ING	
		G	D	N	POST	DIS	AFF	REV	AFF	G	D			
.....														
Rehnquist, J.		✓												
Powell, J.		✓												
Blackmun, J.		✓												
Marshall, J.		✓												
White, J.		✓												
Stewart, J.		✓												
Brennan, J.		✓												
Douglas, J.		✓												
Burger, Ch. J.														

join 3

join 3

Note: After talking to Potter, I am sitting in on argument & will decide later whether to participate.

No. 73-1742 Train v. Natural Resources Defense Council

Argued
1/15/75

Note: after talking to Potter, I am sitting in on argument & will decide later whether to participate.

Norton (SG)

Case relates to emissions from existing fixed sources (e.g. factories) - not auto).

"Primary" quality standards are designed to protect health.

"Secondary" standards protect public welfare.

Govt of State may submit request for postponement of secondary standards for a year. EPA must hold a hearing & decide request on public record. This is subj. to jud. review.

Also EPA may authorize revision of standards & allow variances which may be deemed to be revisions.

EPA argues that where variances requested by a state do not defer compliance beyond state's dead-line (the attainment date), the variance may be treated as a revision within purv. of EPA to allow.

GA submitted its Plan in 1972, but like most states there was one section of state in which nat. standards could not be attained prior to 1975.

Norton (56-cont)

Ga was unable to develop a full schedule of compliances - some 800 plants, etc that requested variances. None is to be approved if delay results in delay beyond final date as prescribed in Act.

CA 5's op. may result in shutting down some plants.

Decision of this issue by CA 1 & CA 9 are correct - esp CA 9.

Ayers (Reser)

Q - whether Act allows state law to preempt Fed Act w/ respect to variances

No. _____

73-1742 TRAIN v. NATURAL RESOURCES DEFENSE COUNCIL, INC. Conf. 1/17/75

The Chief Justice

Douglas, J.

*I remained out
after discussion*

Brennan, J.

Stewart, J.

White, J.

Marshall, J.

Blackmun, J .

Powell, J.

Rehnquist, J.

73-1742

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 23, 1975

No. 73-1742 Train v. Natural Resources
Defense Council
No. 73-1977 Alyeska Pipeline v. Wilderness
Society

Dear Chief:

After further reflection since our discussion at last Friday's Conference, I have concluded not to participate in the decision of the above cases.

I repeat the reasons: In 73-1742 (Train v. Natural Resources Defense Council) Exxon filed a brief amicus indicating that it will be directly affected by the outcome of the case. Until I reviewed this brief in preparation for the argument, I was not aware of Exxon's interest.

In 73-1977 (Alyeska Pipeline v. Wilderness Society), it appears that Exxon is one of the eight large companies which formed Alyeska and which presumably retains substantial interest in it.

My former law firm represented Exxon in Virginia, primarily doing the work of local counsel with respect to real estate matters and the occasional damage suit. Although I personally did not do the Exxon work (and know none of its management people), I have followed the practice to date of staying out of cases in which Exxon is a party. Neither of these cases quite fits the "party" classification, and ordinarily - in view of the guidance given me by the Conference last fall - I would not remain out on account of a brief amicus. Nor would I normally stay out of a case because some client of my former law firm owned a minority interest in a party to a litigation here. The doctrine of "remoteness" must come into play at some point. However, in view of the indications on the record in these two cases of Exxon's substantial interest, I think it best for me not to take part in the decision of either.

I continue to be puzzled as to how long one should stay out of cases such as these. Apart from my old firm's representation I have no interest whatever in Exxon.

I will expect you, of course, to make up for my non-participation here by giving me a full quota of opinions to write in other cases.

Sincerely,

Lewis

The Chief Justice

lfp/ss

cc: The Conference

March 14, 1975

No. 73-1742 Train v. Natural Resources
Defense Counsel

Dear Bill:

Please note at the end of your opinion that I took
no part in the decision of this case.

Sincerely,

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 18, 1975

RE: No. 73-1742 Train v. Natural Resources Defense Council

Dear Bill:

I agree. You have certainly splendidly unraveled a riddle
within an enigma.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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



CHAMBERS OF
JUSTICE BYRON R. WHITE

March 18, 1975

Re: No. 73-1742 - Train v. Natural Resources
Defense Council, Inc. et al.

Dear Bill:

I am convinced. Please join me.

Sincerely,

Mr. Justice Rehnquist

- Copies to Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 19, 1975

73-1742, Train v. Natural Resources Defense
Council

Dear Bill,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
✓

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 27, 1975

Re: No. 73-1742 -- Russell E. Train v. Natural Resources
Defense Council, Inc.

Dear Bill:

Please join me.

Sincerely,

T.M.

T. M.

Mr. Justice Rehnquist

cc: The Conference

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



CHAMBERS OF
THE CHIEF JUSTICE

April 10, 1975

Re: No. 73-1742 - Train v. Natural Resources Defense
Council, Inc.

Dear Bill:

Please join me.

Regards,

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 14, 1975



Dear Bill:

Please add at the end of
your opinion in 73-1742, TRAIN v.
NATURAL RESOURCES DEFENSE COUNCIL:

Mr. Justice Douglas dissents.

A handwritten signature in dark ink, appearing to read "WOD/sp", is written above the typed name.

William O. Douglas

Mr. Justice Rehnquist

cc: The Conference

[illegible]