***Atlantic Richfield Co. v. Christian,* No. 17-1498**

Today, the Supreme Court held that the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") does not divest state courts of jurisdiction over state-law claims brought by landowners seeking restoration damages to their property within a CERCLA-designated Superfund site. But it further held that the landowners are potentially responsible parties ("PRPs") under CERCLA who require EPA approval to take remedial action.

Background: Montana landowners filed suit in Montana state court against Atlantic Richfield, current owner of the Anaconda Copper Smelter in Butte, Montana, which is a designated Superfund site under CERCLA and as such is already subject to an extensive, EPA-managed cleanup. The landowners brought trespass, nuisance, and strict-liability claims under state common law, seeking restoration damages to pay for cleanup measures that exceed those found necessary to protect human health and the environment by the EPA. The Montana trial court rejected Atlantic Richfield's argument that CERCLA precludes the landowners' claim for restoration damages. The Montana Supreme Court granted a writ of supervisory control and affirmed. It rejected Atlantic Richfield's arguments that Section 113 of CERCLA stripped Montana courts of jurisdiction over the landowners' claims and that Section 122(e)(6) prohibited the landowners as PRPs from taking remedial action absent EPA approval.

Issue: Whether CERCLA permits state-court jurisdiction over state-law claims brought by landowners for restoration damages at a Superfund site, and, if not, whether CERCLA requires the landowners to seek EPA approval for their restoration plans.

Court's Holding: In an opinion authored by Chief Justice Roberts, the Supreme Court unanimously held that the decision of the Montana Supreme Court in the supervisory writ proceeding was a "final judgment" within the Supreme Court's jurisdiction.

The Supreme Court further held that the Montana state courts possessed jurisdiction to hear the landowners' claims for restoration damages. This holding was joined by Justices Thomas, Ginsburg, Breyer, Sotomayor, Kagan, Gorsuch, and Kavanaugh. The Court interpreted Section 113(b), which vests exclusive federal-court jurisdiction over controversies arising under CERCLA, to "echo[]" Congress' grant to federal courts of jurisdiction over all civil actions "arising under" the Constitution, laws, or treaties of the United States. Under that standard, it determined that the landowners' nuisance, trespass, and strict-liability claims arise under Montana law, the source of law that created them. The Supreme Court then rejected the argument that Section 113(h) of CERCLA implicitly broadens the scope of actions that Section 113(b) precludes from state-court review. While Section 113(h) deprives federal courts of jurisdiction over certain challenges to Superfund remedial actions, it speaks only to *federal*-court jurisdiction, not *state*-court jurisdiction.

In a holding joined by Justices Ginsburg, Breyer, Alito, Sotomayor, Kagan, and Kavanaugh, Chief Justice Roberts next held that under Section 122(e)(6) the landowners nonetheless qualified as PRPs who require EPA approval to take remedial action. The Court rejected arguments seeking to restrict the definition of PRPs, noting the broad definition of PRPs and explaining that Section 122(e)(6) functions to ensure the development of "a single EPA-led cleanup effort rather than tens of thousands of competing individual ones."

Justice Alito concurred in part and dissented in part. He explained that he did not join the Court's holding that Montana state courts possess jurisdiction over the landowners' state-law restoration claim, because it was not necessary for the Court to decide this question: the case could not proceed without EPA's approval, either way. Justice Gorsuch authored an opinion joined by Justice Thomas, concurring in part and dissenting in part. Justice Gorsuch agreed that the Montana courts possessed jurisdiction over the landowners' restoration claim, but dissented from the Court's holding that the landowners were PRPs under CERCLA, arguing that CERCLA is written to supplement state environmental remedies, rather than prohibit them.