



July 24, 2018

RE: Opposition to Nomination of Brett Kavanaugh to the Supreme Court of the United States

Dear Senators:

On behalf of the Sierra Club and its more than 3 million members and supporters, I write to express our opposition to the confirmation of Brett Kavanaugh and urge you to reject Donald Trump's Supreme Court nominee. Kavanaugh's troubling record raises serious concerns about where he stands on issues like the climate crisis, women's rights, civil rights, privacy, and health and safety in the workplace. The nation deserves a nominee who will consistently honor and protect the rights of the people, and Brett Kavanaugh has proven he will not.

In decision after decision, Kavanaugh has shown that he believes the right of corporations and billionaires to pollute supersedes the right of the public to breathe clean air, drink clean water, and live in safe communities. With the addition of Kavanaugh, an even more extreme Supreme Court would threaten our nation's bedrock public health and environmental laws like the Clean Air Act, the Clean Water Act, and the Endangered Species Act.

In *EME Homer City Generation v. EPA*, Kavanaugh wrote an opinion overturning an EPA rule aimed at controlling the vexing problem of air pollution drifting across state lines, also known as the Good Neighbor Rule, which would have lowered sulfur dioxide emissions by 73 percent and nitrogen oxide emissions by 54 percent, and prevented 34,000 premature deaths.<sup>i</sup> In *Mexichem Fluor v. EPA*, Kavanaugh demonstrated his consistent inclination to block the authority of the EPA and invalidate crucial environmental safeguards by arguing that EPA cannot require companies to replace potent heat-trapping chemicals, hydrofluorocarbons (HFCs), with other substances.<sup>ii</sup>

Also, in *Mingo Logan Coal v. EPA*, Kavanaugh insisted on prioritizing costs to industry over costs to safety and human and environmental health, undeterred by studies that concluded dumping waste from mountaintop removal coal mining into streams would have an "unacceptable adverse effect" to the environment. Kavanaugh's dissenting opinion would have allowed the company to continue to devastate the waterways and wildlife on which local Appalachian communities depend.<sup>iii</sup> These are just three of many examples of Kavanaugh's misguided insistence on putting corporations before people--validating our fear that he will continue to seek to weaken and limit our abilities to tackle the climate crisis and protect public health in our communities.

Furthermore, Kavanaugh has resolved to support the super wealthy and corporations over everyday people, undermining working-class citizens on issues like healthcare, consumer protection, net

neutrality, and business practice regulations.<sup>iv</sup> On multiple occasions, Kavanaugh's decisions disenfranchised workers seeking basic protections, employer accountability, and a working environment safe from discrimination and mistreatment.

In order to protect our communities, it is crucial that the people's interests are represented in all three branches of government. Based on a review of his writings and opinions, Kavanaugh is likely to expand executive power and appears unconcerned about holding the President accountable, despite the explicit purpose of the Supreme Court to be a check and balance on the other branches of government.<sup>v</sup>

The Supreme Court has the great and solemn responsibility to uphold the values of our Constitution, and keep faith with the letter and spirit of the nation's core public health, environmental, civil rights, and labor laws. Therefore, the Court must protect the rights of women, workers, the LGBTQ community, immigrants, and people of color. The Court must protect healthcare for millions, secure clean air and clean water for all, ensure action to tackle the climate crisis, guarantee the right to vote, and safeguard the very strength of our democracy. The decision on the next Supreme Court Justice will shape the direction of our country and whether the promises enshrined in our Constitution and our laws are upheld or rolled back.

For the above reasons, we urge you to oppose Brett Kavanaugh's nomination to serve as an Associate Justice on the Supreme Court. You must ensure that the vacant seat on the nation's highest court is filled by a nominee who will faithfully apply the laws meant to serve the best interest of everyone who lives in the United States, not just corporate polluters, right wing ideologues, and the wealthiest.

Sincerely,



Michael Brune  
Executive Director  
Sierra Club

---

<sup>i</sup> *EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012), *reversed*, 134 S.Ct. 1584 (2014).

<sup>ii</sup> *Mexichem Fluor, Inc. v. E.P.A.*, 866 F.3d 451 (D.C. Cir. 2017).

<sup>iii</sup> *Mingo Logan Coal Co. v. E.P.A.*, 829 F.3d 710 (D.C. Cir. 2016) (Kavanaugh, J., dissenting).

<sup>iv</sup> <<https://www.afj.org/scotus-nominee-brett-kavanaugh>>.

<sup>v</sup> <[https://www.afj.org/wp-content/uploads/2018/06/SYMPOSIUM\\_-CONTRIBUTION\\_-The-President-and-the-Independ.pdf](https://www.afj.org/wp-content/uploads/2018/06/SYMPOSIUM_-CONTRIBUTION_-The-President-and-the-Independ.pdf)>