



LEAGUE OF CONSERVATION VOTERS

United States Senate
Washington, DC 20510

Re: Oppose Judge Brett Kavanaugh for Supreme Court of the United States

Dear Senator,

The League of Conservation Voters (LCV) works to turn environmental values into national, state and local priorities. Each year, LCV publishes the *National Environmental Scorecard*, which details the voting records of members of Congress on environmental legislation. The *Scorecard* is distributed to LCV members, concerned voters nationwide, and the media.

LCV urges you to oppose the confirmation of Judge Brett Kavanaugh to a lifetime appointment on the Supreme Court of the United States. The Supreme Court holds immense power to protect our right to breathe clean air, drink clean water, and participate equitably in our democracy. Justices on the Court have an impact lasting generations, and it is essential that anyone nominated to the Court seeks to respect precedent, interpret the law in a fair and well-reasoned manner, and act as an independent check on the President. Supreme Court Justices also have an obligation to provide equal access to all those seeking justice, and to ensure that no one is above the law.

Judge Kavanaugh's record reflects a concerning preference for corporations and polluters over public health and the environment. In *Mingo Logan Coal Co. v. EPA*, Kavanaugh dissented from a ruling upholding the Environmental Protection Agency's authority to block a mining company from dumping pollutants into our waterways. And in *White Stallion Energy Center v. EPA*, Kavanaugh argued against regulations controlling the emission of mercury and other toxic pollutants into our air.

In several rulings, Judge Kavanaugh has shown hostility towards "*Chevron* deference" by frequently substituting his own statutory interpretations for that of federal agencies. He has also repeatedly challenged the underlying authority of the Environmental Protection Agency to regulate harmful air and water pollution. In *EME Homer City Generation, LP v. EPA*, a decision later rejected by the Supreme Court, Judge Kavanaugh struck down regulations protecting against pollution that crosses state lines. He has also ruled against the EPA's authority to regulate the pollution responsible for climate change, raising serious concerns about whether he would follow the precedent set by the Supreme Court's 2007 decision *Massachusetts v. EPA*.

Kavanaugh's past rulings on legal standing indicate a narrow view of standing that would make it harder to challenge threats to the environment, public safety, and consumer protection. In *Public Citizen v. NHTSA*, he held that increased risk of severe traffic accidents was not "sufficiently 'imminent'" to challenge vehicle safety standards. However, he has found that

corporations have standing to challenge environmental regulations even when the economic impact is minimal, saying “the amount is irrelevant” (*Carpenters Industrial Council v. Zinke*).

In addition to the threat posed to environmental protections, Kavanaugh’s record indicates that his confirmation would dramatically shift the Court on fundamental issues like access to healthcare, reproductive rights, protection against discrimination, workers’ rights, and voting rights. In *South Carolina v. Holder*, Kavanaugh upheld a South Carolina voter ID law that seeks to disenfranchise tens of thousands of people of color.

Finally, Judge Kavanaugh’s record makes clear that he lacks the willingness to serve as an independent check on the President. In his rulings and writings, he has argued for expansive executive authority, including exemption from criminal investigation and broad power over independent agencies. These extreme views run contrary to the role of the Supreme Court.

For all those who want to breathe clean air, drink clean water, and leave a safer planet for future generations, and for the rights of workers, women, immigrants, the disabled, the LGBTQ community, and others, we strongly urge you to oppose the confirmation of Judge Brett Kavanaugh to the Supreme Court of the United States. We will strongly consider including this vote in our 2018 *Scorecard*. If you need more information, please call my office at (202) 785-8683 and ask to speak with a member of our Government Relations team.

Sincerely,

A handwritten signature in cursive script that reads "Gene Karpinski".

Gene Karpinski

President