

President Obama announced his decision to nominate Sonia Sotomayor for the Souter seat today.



credit: NY Times

Environmental issues are unlikely to loom large in the confirmation battle. So far as we know at this point, her most notable decision was in the Entergy case, which involved the question of whether power plants need to use closed cycle water systems for cooling. Judge Sotomayor ruled in the Second Circuit that the statutory language did not allow EPA to consider the relationship between costs and benefits. The Supreme Court reversed in an opinion by Justice Scalia, holding that EPA *could* consider whether benefits were grossly disproportional to costs. This was considered a defeat for environmentalists and a victory for advocates of cost-benefit analysis. Although Scalia claims to believe in following statutory language to the letter, Sotomayor's interpretation clearly was more faithful to the statute's demand that EPA's standards "reflect the best technology available for minimizing adverse environmental impact."