

Supreme Court appointments are among the most durable of Presidential actions. A fifty-year-old appointee could well be on the Supreme Court until 2040 or longer. As an [AP story](#) this morning points out, the election could dramatically change the balance on the Supreme Court:

With four justices in their seventies, odds are good that whoever is elected president in November will have a chance to fill at least one Supreme Court seat. The next justice could dramatically alter the direction of a court closely divided between conservatives and liberals.

Such a change could have a dramatic impact in many areas, among them environmental law. The current Court is closely divided. For instance, the Supreme Court decided by a 5-4 margin that EPA had the power to regulate greenhouse gases.

One key area involves access to the courts. Many of the Court's decisions on standing are 5-4 in either direction — an important issue since it determines whether citizen groups have the right to sue, or whether judicial review will only be available to regulated businesses.

Another key area involves property rights. Conservative groups like the Pacific Law Foundation have campaigned to overturn environmental regulations in the name of property rights. So far, this campaign has had only mixed results. But an additional conservative vote on the Court could shift the balance in favor of property owners at the expense of wetlands and endangered species.

Finally, federal regulation of the environment rests primarily on the commerce clause. As last year's health care opinion shows, the Court is teetering on the edge of significant cutbacks in federal power. The most immediate victims again could be wetlands and endangered species, but an aggressive conservative majority might also go after parts of the Clean Air Act.

Changes in the Court also matter in less dramatic ways. The Court often reviews actions by EPA or the Department of the Interior that are challenged on statutory grounds, with the environment often losing out in recent cases. An additional appointment could sway these decision one way or another.

In short, this election will help shape the government's ability to protect the environment, not just for the next four years, but for decades to come.

