

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-1498

ATLANTIC RICHFIELD COMPANY, PETITIONER

v.

GREGORY A. CHRISTIAN, ET AL.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF MONTANA

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in oral argument in support of petitioner and requests that the United States be allowed ten minutes of argument time. Petitioner has consented to an allocation of ten minutes of its argument time to the United States.

This case involves an environmental cleanup at a Superfund site in Montana administered by the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 et seq. Respondents, who own land within the site, brought Montana-law claims in state court. Among other elements of relief, respondents sought funds to conduct cleanup activities that were

not part of the remedy EPA had selected under CERCLA, and that would require undoing parts of that remedy. Petitioner contends that CERCLA bars or preempts claims for such relief.

The Court's decision whether to permit the claims to proceed will have a significant effect on the cleanup at this Superfund site and others throughout the country. The United States accordingly has a substantial interest in the Court's resolution of the questions presented and filed an amicus brief supporting petitioner. The United States also filed an amicus brief at the petition stage of this case at the Court's invitation and an amicus brief in the Montana Supreme Court at that court's invitation.

The United States has participated in oral argument as amicus curiae in previous cases involving the interpretation of CERCLA. See, e.g., CTS Corp. v. Waldburger, 573 U.S. 1 (2014); Cooper Indus., Inc. v. Aviall Servs., Inc., 543 U.S. 157 (2004); see also Burlington N. & Santa Fe Ry. Co. v. United States, 556 U.S. 599 (2009) (participating in a CERCLA case as a party); United States v. Atlantic Research Corp., 551 U.S. 128 (2007) (same). The United States' participation in oral argument could therefore materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

SEPTEMBER 2019