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HEADLINE: U.S. SUPREME COURT TO HEAR PA. ENVIRONMENTAL BIAS CASE

BYLINE: DON HOPEY, POST-GAZETTE STAFF WRITER

BODY:

The new federal policy on environmental discrimination may figure in a pending **lawsuit** by residents of predominantly black **Chester**, Pa., that will be heard by the U.S. Supreme Court.

The court decided last week to hear the 1996 case in which the **Chester** Residents Concerned for Quality Living allege the state's environmental agency is guilty of discrimination under the 1964 Civil Rights Act's Title VI for concentrating several **waste** sites in the Delaware County town.

The **lawsuit** predates the U.S. Environmental Protection Agency's draft "guidance" of February that states that any emissions-producing facility that predominantly affects minorities is in violation of Title VI.

But the EPA, in briefs supporting the **Chester** residents' case, cites the new guidance and concludes "this matter falls within the United States' mission to address issues of environmental justice."

The state has granted permits to five **waste** disposal facilities in **Chester** since 1987, although only three are operating. Another permit is pending.

The lawsuit was prompted by state permits granted to Soil Remediation Services in 1995, which planned to accept and incinerate 900 tons of petroleum-contaminated soil a day. Those permits were revoked earlier this year at the company's request.

"The new EPA guidance is an attempt to come up with an administrative procedure to determine when siting of polluting industries has discriminatory effects," said Michael Churchill, attorney for the **Chester** citizens group. "But to stop bad practices we had to go to court."

Churchill said that under permits granted by the state, **waste** treatment facilities in **Chester**, which is 68 percent black, could take in 2 million tons a year. **Waste** permits in surrounding Delaware County, where 92 percent of the residents are white, allow for treatment of 1,500 tons a year.

"This suit was filed to enjoin the DEP from issuing any new permits," Churchill said. "The DEP says it makes no

permit determination based on location, but this is an effort to require the department to take location into account."

The case reached the Supreme Court on an appeal by Pennsylvania of a Third Circuit Court ruling that said individuals have the right to challenge state practices that have discriminatory effects - even in the absence of intentional discrimination.

"This is a case of national importance," said Clarke Rupert, a spokesman for the DEP's southeast regional office. "We think the U.S. Circuit Court made a mistake in its interpretation of the law."

No other environmental discrimination cases are pending in Pennsylvania, and the EPA is not reviewing any permits under its new Title VI guidance policy.

Pennsylvania officials do not favor the Title VI guidance from EPA. In a May letter to the EPA, Donald Welsh, deputy secretary for state/federal relations, said the guidance is "far too vague to be helpful."

%BC% EPA Web site on plants, race %EC%

To address the concerns of environmental and civil rights groups that minorities are disproportionately exposed to pollution, the Environmental Protection Agency has made public the racial composition of communities surrounding industrial plants.

The Sector Facility Indexing Project calculates demographic data within a three mile-radius of each plant using census figures. It is available at es.epa.gov/oeca/sfi/access.htm

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