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Qual Proposal

The United States constitution presents no “environmental” principle. Laws that have immense impact on the United States’ natural resources, quality of life, and property rights are not guided by anything explicit in the Constitution. Preliminarily, I wanted to know, has there been predictive guiding principle (jurisprudence) behind Supreme Court decisions affecting environmental regulation? This question has already been thoroughly addressed by important and influential authors. All of the federal legislation that protects of the environment is justified implicitly by the Interstate Commerce Clause (Article I). The Commerce Clause is the primary source of legitimacy for federal environmental regulation but, starting with *US v. Lopez*, the Supreme Court’s interpretation has been destabilized. Though the literature on this recent change it is far from conclusive and there is some controversy, [This will be my Lit Review] there is a general sense that the current reinterpretation (narrowing) of the Commerce Clause will either force formalist judges to declare much of the environmental regulation to be unconstitutional or demand they make some large logical leaps for its defense. In some sense this is understandable since it is not particularly easy to contend that a wetland, inedible fish species, or rare owl is relevant to interstate commerce. In other words, legal formalism is not kind to our current environmental legislation.

Building on this literature, the motivating research question I would like to pursue is: how does this destabilization of the Commerce Clause pertain to the current federal environmental regulation? In essence, what can we expect to come under fire? What antecedent conditions of an environmental case would (under the jurisprudence of the current court) result in a particular ruling- what issues are the inherent linchpins? This is a pragmatic question that should guide the literature review. I want to create a model that helps predict what kind of new legislation would be most vulnerable and why. This research

could be used to determine what components of a case would be knocked down based on the current momentum of the Supreme Court's jurisprudence. This research agenda is therefore grounded in legal theory and would have predictive and generalizable results.