



# NEWS RELEASE



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FOR IMMEDIATE RELEASE:

UNITED STATES SUPREME COURT REJECTS THE UNITED STATES' ROCKY MOUNTAIN ARSENAL CLEANUP APPEAL

WHO: Attorney General Gale A. Norton

WHAT: The United States Supreme Court today let stand the United States Tenth Circuit decision recognizing Colorado's authority to enforce its hazardous waste laws at the Rocky Mountain Arsenal

WHEN: January 24, 1994

In a major victory for the State, today, the United States Supreme Court rejected the federal government's recent attempt to overturn the Tenth Circuit decision that gives Colorado authority to independently enforce its hazardous waste laws at Superfund sites, such as the Rocky Mountain Arsenal.

"We are very pleased with the Court's decision. We have secured Colorado's right to protect the health and environment of its citizens by playing an active and meaningful role in the cleanup of hazardous waste at federal facilities," said Attorney General Norton. "Now we can stop litigating these issues, and put our effort into the cleanup," she added.

Norton had personally argued before the federal 10th Circuit Court of Appeals to win the landmark ruling that recognized Colorado's authority to supervise the Army's cleanup of the Rocky Mountain Arsenal. When the Clinton Administration appealed that decision,

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Norton filed a brief with the Supreme court arguing that the ruling should stand. In her brief to the Supreme Court, Attorney General Norton argued that the federal Superfund law, which guides the cleanup of hazardous waste sites, was enacted to supplement State enforcement activities, not preempt them. States' authority to implement their environmental laws at hazardous waste sites is clearly preserved under Superfund. Therefore, Norton added, only Congress can modify or limit the States' authority, not the courts. Congress has the opportunity to revise the Superfund law this term since it is up for reauthorization.

The Rocky Mountain Arsenal is a federally owned Superfund site located northeast of Denver. The site was used for almost 40 years by the U.S. Army for chemical weapons production and by Shell Oil Company for the manufacture of pesticides. The lawsuit between the Army and Colorado concerns the cleanup of the 93-acre hazardous waste pond known as Basin F. The State has been battling to enforce its hazardous waste laws at Basin F since 1986, while the federal government has insisted the State's role is limited.

On August 8, 1991, the U.S. District Court declared that only the United States could exercise enforcement authority at the Rocky Mountain Arsenal. On April 6, 1993, the Tenth Circuit reversed the lower court's decision finding an inherent conflict of interest with a federal polluter conducting its own cleanup.

"The district court decision had the effect of leaving the states with little authority to assure adequate cleanups at federal facilities within their borders. The Tenth Circuit, and now the U.S. Supreme Court have recognized that the law requires federal and state governments to work together to clean up these sites and to ensure the health and safety of citizens," Attorney General Norton said today.

The Tenth Circuit decision, which the United States Supreme Court has today let stand, has nationwide implications in that it is the first case to hold squarely that states may enforce their hazardous waste laws regarding cleanups at federal facilities.