

Riverkeepers as Enforcement Agents: Citizen Lawsuits and Environmental Policy Enforcement in the United States

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ABSTRACT

Objective:

This study examines lawsuits filed by Riverkeepers to enforce federal environmental laws and their outcomes to evaluate Riverkeepers' enforcement objectives and assess whether this organizational model may be effective for other areas of environmental policy.

Methods:

This study used the Westlaw database to conduct a qualitative content analysis of Riverkeeper-filed court cases. A database of Riverkeeper litigation cases was created to analyze lawsuit motivations, success rates, and recurring patterns, including repeat violators, violations, and legal actions pursued.

Results:

The analysis identifies frequent legal actions related to water discharges and pipeline construction, indicating areas requiring increased enforcement. Findings also reveal gaps in government enforcement prompting some Riverkeeper lawsuits. Lawsuits are most concentrated in the eastern United States, where Riverkeeper organizations are prevalent.

Conclusion:

This study demonstrates Riverkeepers' persistence in pursuing favorable outcomes through appeals and prolonged litigation. As a decentralized organization, Riverkeepers show jurisdictional flexibility in identifying litigation targets. Our findings suggest that the Riverkeeper model may be adaptable to other environmental issues, such as clean air or conservation.

Significance Statement:

This research contributes to understanding the role of non-governmental enforcement of environmental water law and highlights the potential for replicating strategies to strengthen environmental policy enforcement.

Keywords:

Riverkeepers; citizen suits; Clean Water Act; environmental enforcement; water pollution; environmental litigation

Introduction

Riverkeepers are environmental Non-Governmental Organizations (NGOs) that focus on preserving or rehabilitating local water bodies (Riverkeeper.org). Often, they engage in the legal process as a part of their efforts. A literature review revealed a lack of peer-reviewed research on Riverkeeper efforts, with no literature existing on their collective influence on environmental policy or actions within the legal system at any scale. Recognizing this gap in the literature, this research serves as an introduction to the Riverkeeper concept and their actions and resulting impacts, which could initiate further inquiry into the the broader environmental policy enforcement field.

The first official Riverkeeper was established for New York's Hudson River in 1986, building upon the previous Hudson River Fisherman's Association, to establish the "Hudson Riverkeeper" (Waterkeeper.org). The Hudson Riverkeeper's eventual legal successes, described below, inspired others to create other Riverkeeper groups across the United States and even internationally. In 1999, the Waterkeeper Alliance was established by then environmental activist Robert F. Kennedy Jr. as an umbrella organization to unite individual Riverkeeper groups (Scribner 42). The Waterkeeper Alliance fostered the strength and number of Riverkeeper Groups, which has expanded to over 300 internationally as of this writing (Waterkeeper.org).

The research presented here is focused on the lawsuits brought by Riverkeeper groups. The Hudson Riverkeeper obtained the first legal success for the movement, in 1988 (Waterkeeper.org). Legal efforts and both successes and failures have taken place since, with a recent success being the 2023 *Riverkeeper, Inc v. State Contracting Corp. of NY* case in the United States District Court for the Southern District of New York. This case resulted in a settlement wherein State Contracting Corp. of NY was ordered to report information regarding discharges of pollution from its facility to waterbodies and sewers of any kind. As well as granting this Riverkeeper access to the site for inspection at least once a year, the ruling requires this polluter to make corrections within 30 days if

found to violate any terms and pay the Riverkeeper \$40,000 plus up to an additional \$10,000 in fees for continued monitoring costs (*Riverkeeper, Inc v. State Contracting Corp. of NY* 2023).

Another recent successful settlement was reached in the 2023 *St. Johns Riverkeeper, Inc. v. Berman Bros.* case in the United States District Court Middle District of Florida. Berman Bros. was forced to operate its facility according to MSGP (the Environmental Protection Agency's Multi-Sector General Permit) and the Clean Water Act (CWA). The CWA was established in 1972 to regulate discharges of pollutants into the waters of the United States and to regulate quality standards for surface waters. Berman Bros. was also required to implement structural and non-structural best management practices, create a new stormwater sampling structure, implement stormwater controls, implement enhancements to stormwater monitoring and reporting, and pay \$70,000 to reimburse legal fees along with \$35,000 to environmentally beneficial projects within the St. Johns River Watershed (*St. Johns Riverkeeper, Inc. v. Berman Bros.* 2023).

These two examples and others highlight the importance of “citizen suits” or “enforcing suits” in the environmental field, which have proved to be a successful tool for enforcing environmental regulations. An Environmental Law Institute article by Roberts and Dobbins (1992) articulates the role of citizen environmental enforcement of environmental protection goals that allow citizens to seek enforcement of environmental laws and regulations. Roberts and Dobbins point out that these citizen lawsuits do not seek personal economic gain for the plaintiff, allowing the suits to be filed explicitly for the purpose of the public's best interest. These citizen suits seek to provide a more level environmental playing field, helping neutralize powerful lobbying and industry influences, and act as a platform for citizens to be heard.

To bring a citizen suit forward under, for example, the CWA, a Riverkeeper needs to provide a 60-day notice to the relevant government agency, the state in which the alleged discharge occurred, and identify the alleged violator. A Riverkeeper then files a lawsuit and attempts to demonstrate

standing of the alleged violation and harm suffered or threatened (Ohio Environmental Council, Guide to Clean Water Act Citizen Suits). Exploring such legal efforts in Germany, Bothner, Toller, and Schnase (2022) quantitatively analyzed the impacts of environmental organization (ENGO) lawsuits on nitrogen dioxide (NO₂) levels in several German cities, finding that in cities where legal action was taken, NO₂ levels decreased more significantly than in cities where no legal action was taken. This led to the conclusion that it is possible for ENGO lawsuits to lead to air quality improvements that would not have occurred otherwise.

Research suggests that citizen environmental lawsuits can be important contributors to effective environmental regulation. Gray and Shimshack (2011) found that traditional monitoring and enforcement has become increasingly difficult and sometimes controversial, forcing the industrialized world into alternate solutions such as voluntary programs or informational policies. They further state that many countries' enforcement case numbers have declined; they cite the U.S. as one example, with EPA's civil enforcements having markedly declined since the 1990s. Additionally, reports from the U.S. Governmental Accountability Office (GAO) document a recent discontinuance of initiatives by the EPA to encourage compliance with the CWA for animal waste pollution and storm water and raw sewage runoff (GAO 2021). Thomson further explored EPA's reduction of claims through a spatial cluster analysis where they discussed how the EPA's enforcement weakness enables green criminal activity and suggests that economically the profits of these crimes outweigh potential government sanctions (Thomson 2020). May (2005) examined regulation and compliance motivations in the U.S. and found that conventional regulation was significantly more impactful on managers' deterrence measures than were voluntary programs. The disconnect between support for voluntary programs, shown by Gray and Shimshack, and the apparent disregard for those programs, shown by May, illustrates a prevailing inconsistency with environmental regulation in the U.S.

This discussion suggests that other forms of regulation operating outside of the U.S. government to hold violators legally accountable are needed. Dillon explored how in recent years the agencies charged with enforcement have been stripped of their capacity to enforce environmental protection laws, leading to the need for other mechanisms (Dillon 2018). Mayer adds that due to weak regulatory authorities, there is great variance between how active individual U.S. states are assessing and addressing water quality, indicating that an outside third party could offer additional options (Mayer 2024). Furthermore, Henderson and Hamilton (2019) discuss how Americans appear to support public advocacy only when it aligns with their own policy values or partisanship, potentially leaving environmental policy vulnerable to shifting political climates instead of consistent non-partisan protection efforts.

In sum, Riverkeeper-type groups have emerged as an additional line of environmental law defense, representing an intersection between government regulation and voluntary action. They seek to enforce the government's policies and standards when the government chooses not to .

Data and Methods

Data

To document the legal influence of Riverkeeper environmental policy enforcement, the lead author created the Reported Riverkeeper Case Decisions (RRCD) database. The RRCD database was constructed after a comprehensive search of the Westlaw legal database and includes information such as the court and circuit the case or lawsuit was filed and held, case summary, complaint location, and value-added codes created for each case.

It should be noted that while Westlaw is a subscription-based legal research database that provides access to case decisions, as well as case law, statutes, regulations, legal journals, and other authoritative sources, it may not include all Riverkeeper cases. It is likely that many Riverkeeper-

related decisions are not captured by this analysis, as many cases likely have ended in a settlement agreement and as such do not show up in the Westlaw decisions.

Methods

To identify case decisions for inclusion in the RRCD database, Westlaw's advanced search tool was used with the following key parameters set with the "must include terms" tool: first, the search was restricted to *reported* cases decisions; second, the term "Riverkeeper" must be listed among the parties—as either a plaintiff or defendant; and third, the cases must reference code "33 U.S. 1365" to specify cases decisions citing the section of the Clean Water Act for citizen suits. The period of study runs from 1993 through the end of the search, May 6, 2024. Furthermore, the results were refined by removing U.S. Supreme Court cases due to lack of information contained in their case opinion documents. This search resulted in 149 usable case decisions, upon which the RRCD database was constructed.

The thematic codes for each usable case decision were identified via a qualitative content analysis to, as Hsieh & Shannon (2005) suggest, "identify core consistencies and meanings through the systematic classification process of coding and identifying themes or patterns." Thematic codes assigned ultimately included: Case Citation; Case Docket #; Westlaw Results List #; Case Name, Head Plaintiff; Head Defendant; Other Involved Parties with Defendant; Year; Court; State; Circuit; Provided Background / Synopsis (Directly Quoted from the Reported Case Opinions); Outcome Summary (Summaries Written by lead author); Riverkeeper Outcome; Tags (Case Types); Other Riverkeepers Involved; Other Plaintiff Groups; Holdings (Quoted from the Reported Case Opinions); Holdings Outcome (Quoted from the Reported Case Opinions); Riverkeeper Attorneys; Judge; Law Firm; and Location.

Each case decision also was coded according to its outcome as “favorable outcome,” “unfavorable outcome,” or “mixed” from the perspective of the Riverkeeper. Case decisions are complex, multi-faceted, and nuanced, so categorizing them involved interpretation. To do this, the holdings of each case decision, which are the rulings reported in the case opinion that decide the outcome of the case (Legal Information Institute, 2023), were analyzed. Within the holdings of each case, if there were a majority of holdings that went in favor of the Riverkeeper, then the case was considered to have a “favorable outcome.” If they were primarily in favor of the opponent of the Riverkeeper, the case would be considered an “unfavorable outcome”, and if the holdings were relatively equally in favor and against the Riverkeeper, then the case was deemed “mixed”. For example, if the case opinion had two holdings that resulted in the Riverkeepers earning standing for the lawsuit, it would be considered favorable. However, if a case opinion reports that there were two holdings in which the opponent acted reasonably or states that Riverkeeper does not have standing to pursue legal action, it would be considered unfavorable. Lastly, if a case opinion reports two holdings where the Riverkeeper is found to have standing to bring a citizen suit under a federal act, yet simultaneously is found to not have standing to bring a citizen suit under a state law, then it would be considered a mixed outcome. It should be noted here that what we consider a “win” for the Riverkeepers encompasses some sort of overall “positive” outcome, ranging from a technical win about discovery to a substantial court decision.

Database Composition

The RRCD database is comprised of 149 court case decisions and is shown geographically in Figure 1. From 1993-2003 there were 30 case decisions, from 2003-2013 there were 59, and from 2013-2023 there were 91. The location of the cases was identified by *where the environmental issue occurred*, to the extent that the case opinion described. As seen in Figure 1 and Table 1, the highest

concentration of case decisions is in the eastern United States, with New York having the most, the state where Riverkeeper movement began. Concentrations appear primarily in coastal states, but there are also several recorded in inland states, including Kentucky, Utah and West Virginia. Delaware Riverkeeper Network and Delaware Riverkeeper were the most active Riverkeepers in this set of cases.

The case decisions in the dataset were spread relatively evenly between the District Courts and the Appellate Courts (Tables 2 and 3). Riverkeepers pursued new cases in the District Courts and appealed cases into the Appellate Courts, challenging their losses.

Figure 1. Locations of Reported Riverkeeper Case Decisions (RRCD) in database.



Pin Type and Name	Description
Dark Blue Pin – Discharge	These are cases involving unlawful discharge. N=45
Red Pin - Review	These are cases involving challenging a decision and requesting it to be reviewed. N=44
Yellow Pin - Project	These are cases involving construction projects. N=22
Light Blue Pin - Permit	These are cases involving environmental permit issues. N=22
Pink Pin - Impact Analysis	These are cases involving challenging an impact analysis' validity. N=6
Green Pin - Wildlife	These are cases involving harm towards wildlife. N=10

Table 1. Reported Riverkeeper District Court Decisions by state, 1993-2023.

State	Frequency
New York	19
Georgia	11
Oregon	8
District of Columbia	7
Pennsylvania	6
Alabama	7
New Jersey	6
Louisiana	3
Florida	3
Washington	3
South Carolina	3
Delaware	2
North Carolina	2
Tennessee	2
Maryland	2
Kentucky	1
West Virginia	1
Virginia	1

Table 2. Reported Riverkeeper Appellate Circuit Decisions, 1993-2023.

Circuit	Frequency
3rd	14
9th	12
2nd	9
4th	9
11th	9
District of Columbia	6
5th	1
6th	1
10th	1

Table 3. Type of court hearing the cases.

Court Type	Frequency
District Court	87
Appellate Court	62

Table 4. Type of complaint tag case frequency.

Complaint Tag Type	Frequency
Discharge	45
Review	44
Project	22
Permit	22
Wildlife	10
Impact Analysis	6

Table 5. Riverkeeper case opponent frequency.

Opponent Type	Frequency
Private Company	47
Other	36
Municipality	21
United States Army Corps of Engineers (USACE)	20
Environmental Protection Agency (EPA)	17
Federal Energy Regulatory Commission (FERC)	8

Table 4 shows our groupings of complaint types (tags), though some case decisions could fit into more than one type: Discharge refers to unlawful discharge into waters; Review regards cases that were brought forward requesting the review of a previous decision; Project refers to cases challenging the lawfulness of a new construction project; Permit refers to cases challenging the lawfulness of a permit approval or request; Wildlife refers to cases revolving around the health of wildlife; and Impact Analysis refers to cases challenging the validity of a previously conducted impact analysis. Discharge and Review were the tag types with the highest frequency of occurrence in the dataset.

There were five main types of lawsuit opponents that Riverkeepers acted against (Table 5). Private companies were the most common party sued by the Riverkeepers, followed by Municipalities, the U.S. Army Corps of Engineers (USACE), the EPA, and the Federal Energy

Regulatory Commission (FERC). The “Other” category includes miscellaneous individuals or government agencies that do not contribute to a particular type or opponent. Law firms that represented the Riverkeeper groups are also included in the database. These included law clinics, law centers, environmental firms, and law schools. About 48% of the case decisions in this database were categorized as having outcomes favorable for Riverkeepers.

Results

Federal Government Lawsuit Opponents

Of the 149 court case decisions in the database, 45 involved some type of federal government entity, including the aforementioned USACE, EPA, and FERC.

U.S. Army Corps of Engineers

The most frequent (20 case decisions) federal government opponent was the U.S. Army Corps of Engineers. Of these, 6 resulted in favorable outcomes for Riverkeepers (Table 6 provides four examples). Cases against the USACE focused on issued permits, such as permits to allow surface coal mining and discharge, in which the Riverkeeper challenged that this action would violate the CWA. *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers* (2015) and *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers* (2014) resulted in the court holding that the Riverkeeper had standing and that there could be environmental benefits with success of the suit¹. In *Kentucky Riverkeeper, Inc. v. Rowlette* (2013), *Ogeechee-Canoochee Riverkeeper, Inc. v. U.S. Army Corps of Engineers* (2008), and *Columbia Riverkeeper v. United States Army Corps of Engineers* (2020), a series of appeals concluded that the USACE acted arbitrarily and capriciously

¹ *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271 (2015); *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 297 F.R.D. 633 (2014)

when they reauthorized projects without applying the newly imposed environmental limits². In *Riverkeeper v. U.S. Army Corps of Engineers* (2014), the USACE failed to establish that its environmental assessment documents were confidential³. A Riverkeeper was ruled to have standing in *Hudson Riverkeeper Fund, Inc. v. Atlantic Richfield Co.* (2001) and *Flint Riverkeeper, Inc. v. Southern Mills, Inc.* (2017). Discovery was allowed against an alleged polluter in *Flint Riverkeeper, Inc. v. Southern Mills, Inc.* (2017), and in *Lower Susquehanna Riverkeeper v. Keystone Protein Company* (2021), the Riverkeeper was granted partial summary judgement against the alleged polluter while denying the defendants attempt for summary judgement.

Outcomes unfavorable to Riverkeepers in Appellate courts included the Corps' actions were not arbitrary or capricious in *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers* (2016)⁴. In *South Carolina v. United States Army Corps of Engineers* (2023), a series of appeals held that the USACE was not required to comply with various environmental acts⁵. Riverkeepers challenged the USACE's consideration of environmental impacts in several instances, including *St. Johns Riverkeeper, Inc v. United States Army Corps of Engineers* (2020), *Broadened Horizons Riverkeepers v. U.S. Army Corps of Engineers* (1998), *State of Delaware Dept. of Natural Resources and Environmental Control v. U.S. Army Corps of Engineers* (2010), *Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers* (2014), and *Altamaha Riverkeeper v. United States Army Corps of Engineers* (2018) , but the courts held that the USACE's impact analyses were sufficient⁶. Riverkeepers challenged the approval of projects, including *Delaware Riverkeeper Network v. United States Army Corps of Engineers* (2017), *Delaware Dept. of Natural Resources*

² *Kentucky Riverkeeper, Inc. v. Rowlette* 714 F.3d 402 (2013); *Ogeechee-Canoochee Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 559 F.Supp.2d 1336 (2008); *Columbia Riverkeeper v. United States Army Corps of Engineers*, 2020 WL 6874871 (2020)

³ *Riverkeeper v. U.S. Army Corps of Engineers* 38 F.Supp.3d 1207 (2014)

⁴ *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 833 F.3d 1274 (2016)

⁵ *South Carolina v. United States Army Corps of Engineers*, 66 F.4th 189 (2023)

⁶ *St. Johns Riverkeeper, Inc v. United States Army Corps of Engineers*, 462 F.Supp.3d 1256 (2020); *Broadened Horizons Riverkeepers v. U.S. Army Corps of Engineers*, 8 F.Supp.2d 730 (1998); *State of Delaware Dept. of Natural Resources and Environmental Control v. U.S. Army Corps of Engineers*, 681 F.Supp2d 546 (2010); *Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers*, 23 F.Supp.3d 1373 (2014); *Altamaha Riverkeeper v. United States Army Corps of Engineers* 355 F.Supp.3d 1181 (2018)

and Environmental Control v. U.S. Army Corps of Engineers (2012), Delaware Dept. of Natural Resources and Environmental Control v. U.S. Army Corps of Engineers (2010), Ouachita Riverkeeper, inc. v. Bostick (2013), Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers (2014), Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers (2018), and Georgia River Network v. U.S. Army Corps of Engineers (2003), but the courts held that the Corps did not act arbitrarily or capriciously ⁷. In St. Johns Riverkeeper, Inc. v. United States Army Corps of Engineers (2018), a court did not have jurisdiction to rule on the case⁸.

Table 6. Example cases brought against the USACE.

Case Name	Year	Background	Outcome Summary
BLACK WARRIOR RIVERKEEPER v. U.S. ARMY CORPS OF ENGINEERS, et al., Defendants, The Alabama Coal Association, et al., Intervenor–Defendants.	2014	Organizations committed to protection of environment brought action against U.S. Army Corps of Engineers employees and various companies attacking 41 national permits issued by the government under which companies were engaged in surface mining of coal within watershed of river. Plaintiffs moved for waiver of surety bond prerequisite to entry of preliminary injunction.	The Riverkeeper's motion was denied so the outcome was not in their favor as the expensive fee was not waived however the court held that they had standing to bring the case forward
BLACK WARRIOR RIVERKEEPER, INC., Defenders of Wildlife, Plaintiffs–Appellants, v. U.S. ARMY CORPS OF ENGINEERS, Lt General Thomas P. Bostick, U.S. Army Corps of Engineers, Col. Jon Chytka, U.S. Army Corps of Engineers, Mobile District, Defendants–Appellees.	2016	Two environmental groups brought a case against the U.S. Army Corps of Engineers on the basis that the issuance of a general permit allowing surface mining that discharges dredge or fill into navigable waters violates the CWA and NEPA. The United States District Court for Northern District of Alabama granted summary judgement to defendants, but Riverkeeper appealed and The Court of Appeals affirmed in	This is the second appeal of whether the United States Army Corps of Engineers’ decisions to issue permits were arbitrary and capricious. The first time, the district court granted summary judgement to the United States Army Corps of Engineers and the Riverkeepers appealed. Then, the Corps admitted it failed to consider certain information, so the court remanded the case to the district court, where it was remanded to the Corps for further review. Then, the Corps affirmed its decision to issue

⁷ Delaware Riverkeeper Network v. United States Army Corps of Engineers, 869 F.3d 148 (2017); Delaware Dept. of Natural Resources and Environmental Control v. U.S. Army Corps of Engineers, 685 F.3d 259 (2012); Delaware Dept. of Natural Resources and Environmental Control v. U.S. Army Corps of Engineers, 751 F.Supp.2d 715 (2010); Ouachita Riverkeeper, inc. v. Bostick, 938 F.Supp2d 32 (2013); Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers, 23 F.Supp.3d 1373 (2014); Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers, 354 F.Supp.3d 1253 (2018); Georgia River Network v. U.S. Army Corps of Engineers, 334 F.Supp.2d 1329 (2003)

⁸ St. Johns Riverkeeper, Inc. v. United States Army Corps of Engineers, 304 F.Supp.3d 1229 (2018)

		part, reversed in part, and remanded.	the permit. Riverkeeper challenged this outcome, but the court again gave summary judgement to the Corps. Riverkeeper appeals again, but ultimately the court affirms. The court found that there was nothing arbitrary or capricious about the Corps decision.
COLUMBIA RIVERKEEPER, Sierra Club, Center for Biological Diversity, Washington Environmental Council, and Washington Physicians for Social Responsibility, Plaintiffs, v. UNITED STATES ARMY CORP OF ENGINEERS, and National Marine Fisheries Service, Defendants. And Port of Kalama, Intervenor-Defendant.	2020	Environmental advocacy organizations brought action challenging permits issued by the United States Army Corps of Engineers approving proposed methanol refinery, export facility, and pipeline to supply the refinery with natural gas. Following intervention by port, all parties moved for summary judgment.	The holdings of this case were majority in favor of the Riverkeeper group in which they show that the USACE acted arbitrarily and capriciously in approving the proposed refinery project.
OGEECHEE–CANOOCHEE RIVERKEEPER, INC., Plaintiff, v. UNITED STATES ARMY CORPS OF ENGINEERS; Lt. General Carl A. Strock, United States Army Corps of Engineers; Colonel Mark S. Held, United States Army Corps of Engineers, Savannah District; Mirian Magwood, United States Army Corps of Engineers, Savannah District, Defendants.	2008	Environmental organization brought action against United States Army Corps of Engineers and various Corps officers challenging, under the Administrative Procedure Act (APA), Corps decision to exempt a proposed timber harvest from Clean Water Act (CWA). The parties cross-moved for summary judgment.	The Environmental group was successful in showing the court that the USACE acted arbitrarily and capriciously in its actions regarding a proposed timber harvest.

Environmental Protection Agency

Of the seventeen (17) case decisions looked at that were brought against the EPA, only six resulted in outcomes favorable for the Riverkeepers (see four examples in Table 7). Case decisions that did not favor Riverkeepers included regulations regarding cooling water intake structures, such as in Cronin v. Browner (2000), where the EPA was given more flexibility⁹, and in Riverkeeper, Inc.

⁹ Cronin v. Browner 2000, 90 F.Supp.2d 364 (2000)

U.S. E.P.A. (2004) and *Cooling Water Intake Structure Coalition v. United States Environmental Protection Agency* (2018) where the court held that the EPA acted reasonably and within authority¹⁰. However, there were case decisions favorable to Riverkeepers, such as in *Riverkeeper, Inc. v. United States Environmental Protection Agency* (2007), where the court prioritized the importance of best available technology even if it is at a higher cost¹¹, as well as in *Riverkeeper, Inc. v. United States Environmental Protection Agency* (2007) where there was a denial of the EPA's dismissal attempt of the case regarding cooling intake structures¹². Another case type brought against the EPA included petitions challenging state authorization of the National Pollutant Discharge Elimination System (NPDES) but outcomes were unfavorable to Riverkeepers, such as in *Riverkeeper v. United States Environmental Protection Agency* (2015) and *Pine Creek Valley Watershed Assoc. v. United States Environmental Protection Agency* (2015), where the courts ruled in favor of the EPA in transferring permitting authority to the state¹³. Riverkeepers in *Anacostia Riverkeeper, Inc. v. Jackson* (2010) directly challenged the EPA's pollution limits, but these efforts were dismissed. o14. Riverkeepers also attempted to compel the EPA to review state water quality standards in *Pine Creek Valley Ass'n v. United States Environmental Protection Agency* (2015) and *Cahaba Riverkeeper v. Environmental Protection Agency* (2019), but the EPA successfully moved for dismissals in both cases¹⁵. However, in *Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A.* (2009), the Riverkeeper challenged an NPDES rule in which the court rejected the EPA's motion to dismiss¹⁶. In *Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A.* (2014) a suit was brought against the EPA seeking review of permitting requirements; the court held that the

¹⁰ *Riverkeeper, Inc. v. U.S. E.P.A.* 2004 358 F.3d 174 (2004); *Cooling Water Intake Structure Coalition v. United States Environmental Protection Agency* 2018 (905 F.3d 49)

¹¹ *Riverkeeper, Inc. v. United States Environmental Protection Agency* 2007, 475 F.3d 83 (2007)

¹² *Riverkeeper, Inc. v. United States Environmental Protection Agency* 2007, 514 F.Supp.2d 565 (2007)

¹³ *Riverkeeper v. United States Environmental Protection Agency* 2015 806 F.3d 1079 (2015); *Pine Creek Valley Watershed Assoc. v. United States Environmental Protection Agency*, 137 F.Supp.3d 767 (2015)

¹⁴ *Anacostia Riverkeeper, Inc. v. Jackson*, 713 F.Supp.2d 50 (2010)

¹⁵ *Pine Creek Valley Ass'n v. United States Environmental Protection Agency*, 97 F.Supp.3d 590 (2015); *Cahaba Riverkeeper v. Environmental Protection Agency* 938 F.3d 1157 (2019)

¹⁶ *Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A.*, 630 F.Supp.2d 295 (2009)

EPA acted arbitrarily and capriciously¹⁷ but that decision was reversed by an appellate court in Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A (2017)¹⁸.

Table 7. Example cases brought against the EPA.

Case Name	Case Year	Background	Outcome Summary
ANACOSTIA RIVERKEEPER, INC. and Friends of the Earth, Plaintiffs, v. Lisa JACKSON, in her official capacity as Administrator of the United States Environmental Protection Agency, Defendant.	2010	Environmental groups brought action challenging pollution limits promulgated by Environmental Protection Agency (EPA) for District of Columbia waters as inconsistent with Clean Water Act (CWA). EPA moved for partial dismissal and partial remand without vacatur.	The Riverkeeper's attempt to challenge pollution limits set by the EPA were barred because the court held there was a different remedy to the problem.
RIVERKEEPER, INC., et al., Plaintiffs, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al., Defendants.	2007	Environmental groups, states, and industry associations petitioned for review of final rule of Environmental Protection Agency (EPA) regulating cooling- water intake structures at existing power plants. Following remand, 475 F.3d 83, EPA moved for dismissal.	EPA attempted to move for dismissal, but the court held that it had jurisdiction over regulation under CWA, so the motion was denied in favor of the Riverkeeper.
Cahaba RIVERKEEPER, et al., Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent, Alabama Department of Environmental Management, Intervenor.	2015	Environmental organizations filed petitions with Environmental Protection Agency (EPA) seeking commencement of proceedings to withdraw Alabama's authorization to administer National Pollutant Discharge Elimination System (NPDES). State department of environmental management intervened. EPA and state moved to dismiss.	The court ultimately held that this was not a federal issue thus granting the National EPA's motion to dismiss with agreement that the EPA may transfer permitting authority to a state.
CAHABA RIVERKEEPER, et al., Petitioners, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, et al., Respondents.	2019	Environmental organizations filed petition under Clean Water Act (CWA) for review of United States Environmental Protection Agency's (EPA) denial of their petition to commence proceedings to withdraw Alabama's authority to administer National Pollutant Discharge Elimination System (NPDES) permit program.	The Riverkeeper's current petition was denied by the court because the court found that the EPA did not abuse its discretion when denying the Riverkeeper's petition.

¹⁷ Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A., 8 F.Supp.3d 500 (2014)

¹⁸ Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A., 846 F.3d 492 (2017)

Federal Energy Regulatory Commission

Eight case decisions that were brought against the Federal Energy Regulatory Commission were analyzed, with two leading to outcomes favorable for the Riverkeepers (see Table 8). These included issues regarding FERC's environmental assessments, where the Riverkeeper was granted review because the assessment failed to address cumulative impacts in *Delaware Riverkeeper Network v. F.E.R.C.* (2014)¹⁹, but in *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission* (2022) the court held that the environmental analysis conducted by FERC was reasonable²⁰. The court held that FERC did not violate the CWA in *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission* (2017) and *EarthReports, Inc. v. Federal Energy Regulatory Commission* (2016)²¹. Riverkeeper interests were found not to be within the scope of the CWA or the National Environmental Policy Act (NEPA) in *Gunpowder Riverkeeper v. F.E.R.C.* (2015)²². For *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission* (2018) and a subsequent appeal, the court held that FERC was not biased because a state's right to a preserved environment does not create federal protection²³.

Table 8. Example cases brought against FERC.

Case Name	Year	Background	Outcome Summary
DELAWARE RIVERKEEPER NETWORK, et al., Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent. Tennessee Gas Pipeline Company, LLC and Statoil Natural Gas, LLC, Intervenor.	2014	Environmental groups requested the review of an environmental assessment of the Federal Energy Regulatory Commission (FERC) that originally found that a natural gas pipeline upgrade project did not have significant environmental impact.	The court granted the petition for review because it challenges the FERC's segmentation of its NEPA review and failed to address the cumulative impacts of the upgrade projects

¹⁹ *Delaware Riverkeeper Network v. F.E.R.C.*, 753 F.3d 1304 (2014)

²⁰ *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission*, 45 F.4th 104 (2022)

²¹ *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission*, 857 F.3d 388 (2017); *EarthReports, Inc. v. Federal Energy Regulatory Commission*, 828 F.3d 949 (2016)

²² *Gunpowder Riverkeeper v. F.E.R.C.*, 807 F.3d 267 (2015)

²³ *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission*, 895 F.3d 102 (2018)

DELAWARE RIVERKEEPER NETWORK and Maya van Rossum, the Delaware Riverkeeper, Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent Adelphia Gateway, LLC, Intervenor	2022	Petitioners sought judicial review of Federal Energy Regulatory Commission's (FERC) order approving proposed natural gas pipeline builder's application for certificate of public convenience and necessity.	The outcome of the Delaware Riverkeeper Network v. Federal Energy Regulatory Commission case favored the Federal Energy Regulatory Commission (FERC). The court upheld FERC's determination of market needs for the project and found that the environmental analysis conducted by FERC was reasonable. The certificates issued for the PennEast Pipeline Project were vacated, and related actions were dismissed.
DELAWARE RIVERKEEPER NETWORK and Maya Van Rossum, the Delaware Riverkeeper, Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent Transcontinental Gas Pipe Line Company, LLC, Intervenor	2017	The Federal Energy Regulatory Commission (FERC) issued a certificate for a natural gas pipeline expansion project, Riverkeeper filed a petition alleging CWA and NEPA violations. The Pipeline company intervened.	The court found that the Riverkeepers petition was not moot, however the court decided that FERC's approval of construction did not violate CWA or NEPA, petition denied
EARTHREPORTS, INC., doing business as Patuxent Riverkeeper, et al., Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent Dominion Cove Point LNG, LP, et al., Intervenor	2016	Several environmental organizations petitioned for review of the Federal Energy Regulatory Commission's (FERC) conditional authorization of the conversion of a liquefied natural gas (LNG) facility from an import maritime terminal to a mixed-use, import and export terminal, alleging that FERC did not satisfy its obligations under the National Environmental Policy Act (NEPA).	The case was not in favor of the Riverkeeper group because the petition for review was denied. The holdings were in support of the decisions made by the defendant.

Environmental Type Lawsuits

Discharge

The largest number of case decisions in the RRCD, 40, involved discharge (see four examples in Table 9). Of these, 28 were identified as favorable for the Riverkeepers. Coal and surface mining, oil, solid waste, sewage, industrial plants and stations, lack of discharge permit, pipeline discharge, and violations of National Pollutant Discharge Elimination System Permits (NPDES) and State Pollutant Discharge Elimination System Permits (SPDES) represented a

majority of discharge issues tried. In *Black Warrior Riverkeeper, Inc v. Cherokee Mining, LLC* (2008) the court held that permit reauthorization was arbitrary and capricious and affirmed Riverkeepers standing of citizen suits²⁴. However, in *Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers* the mining company was found to not act arbitrarily or capriciously (2018)²⁵. In decisions regarding oil discharge the courts held that Riverkeepers had standing to challenge the discharge of oil, denying oil companies' motion for summary judgement. Riverkeepers also satisfied²⁶, and successfully lifted document confidentiality from an oil company in *Apalachicola Riverkeeper v. Taylor Energy Co., LLC* (2013). Solid waste discharge case decisions favored Riverkeepers in proving plausible claim against polluting manufacturers in *Tennessee Riverkeeper, Inc. v. 3M Company*²⁷.

Discovery was allowed against an alleged polluter in *Flint Riverkeeper Inc. V. Southern Mills, Inc.*,²⁸ and in *Lower Susquehanna Riverkeeper v. Keystone Protein Company* (2021), the Riverkeeper was granted partial summary judgement against the alleged polluter while denying the defendants attempt²⁹. In *Jones Creek Investors, LLC v. Columbia County, Ga.* (2015), the Riverkeeper successfully reversed the previous dismissal of their case in *Jones Creek Investors, LLC v. Columbia County, Ga.* (2015). Penalties were successfully imposed on the defendant in *Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A* (2009) and *Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York*³⁰. There was a reversal of a dismissal regarding discharge to bring the Riverkeeper case back into the courts in *Upstate Forever v. Kinder Morgan Energy Partners, L.P.*³¹. Outcomes regarding NPDES permits upheld Riverkeeper standing to bring the suit

²⁴ *Black Warrior Riverkeeper, Inc v. Cherokee Mining, LLC*, 548 F.3d 986 (2008)

²⁵ *Black Warrior Riverkeeper, Inc v. U.S. Army Corps of Engineers*, 354 F.Supp.3d 1253 (2018)

²⁶ *Apalachicola Riverkeeper v. Taylor Energy Co., LLC*, 954 F.Supp.2d 448 (2013)

²⁷ *Tennessee Riverkeeper, Inc. v. 3M Company*, 234 F.Supp.3d 1153 (2017)

²⁸ *Flint Riverkeeper, Inc. v. Southern Mills, Inc.*, 261 F.Supp.3d 1345 (2017)

²⁹ *Lower Susquehanna Riverkeeper v. Keystone Protein Company*, 520 F.Supp.3d 625 (2021)

³⁰ *Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A*, 630 F.Supp.2d 295 (2009); *Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York*, 451 F.3d 77 (2006)

³¹ *Upstate Forever v. Kinder Morgan Energy Partners, L.P.*, 887 F.3d 637 (2018)

in *Altamaha Riverkeeper v. City of Cochran* (2001), *Upstate Forever v. Kinder Morgan Energy Partners, L.P.* (2017), and *Black Warrior Riverkeeper, Inc. v. Birmingham Airport Authority*³². The Riverkeeper successfully showed that thermal pollution violations were actionable under the CWA in *Hudson Riverkeeper Fund, Inc. v. Orange and Rockland Utilities, Inc.*³³, and in *Riverkeeper, Inc. v. Mirant Lovett, LLC* (2009)³⁴ and *Upper Chattahoochee Riverkeeper Fund, Inc. v. City of Atlanta* (1997)³⁵ was able to prove violations by sewer overflow. Riverkeepers were ruled to have standing in *Hudson Riverkeeper Fund, Inc. v. Atlantic Richfield Co.* (2001) and *Flint Riverkeeper, Inc. v. Southern Mills, Inc.*³⁶.

Riverkeeper could not prove pollution as a point source in *Hudson Riverkeeper Fund, Inc. v. Harbor at Hastings Associates* (1996)³⁷. A sewage case was dismissed in *Pine Creek Valley Watershed Assoc. v. U.S. E.P.A.* (2015)³⁸. An appellate court ruled that landfill and settling ponds do not qualifying as “point sources” in *Sierra Club v. Virginia Electric & Power Company* (2018)³⁹. In *Anacostia Riverkeeper v. Washington Gas Light Co.* (2012) the Riverkeeper failed to state a sufficient claim for the Resource Conservation and Recovery Act (RCRA)⁴⁰. A discharge permit appeal went in favor of a defendant accused of polluting in *Potomac Riverkeeper, Inc v. National Capital Skeet and Trap Club* (2005). There was a dismissal due to no violation of the CWA found by the pipeline discharge⁴¹ in *Upstate Forever v. Kinder Morgan Energy Partners, L.P.* (2017). A Riverkeeper’s claim was deemed moot⁴² in *Black Warrior Riverkeeper, Inc. v. Cherokee Mining,*

³² *Altamaha Riverkeeper v. City of Cochran*, 162 F.Supp.2d 1368 (2001); *Upstate Forever v. Kinder Morgan Energy Partners, L.P.*, 252 F.Supp.3d 488(2017); *Black Warrior Riverkeeper, Inc. v. Birmingham Airport Authority*, 561 F.Supp.2d 1250 (2008)

³³ *Hudson Riverkeeper Fund, Inc. v. Orange and Rockland Utilities, Inc.*, 835 F.Supp.160 (1993)

³⁴ *Riverkeeper, Inc. v. Mirant Lovett, LLC*, 675 F.Supp.2d 337 (2009)

³⁵ *Upper Chattahoochee Riverkeeper Fund v. City of Atlanta*, 986 F.Supp.2d 1406 (1997)

³⁶ *Hudson Riverkeeper Fund, Inc. v. Atlantic Richfield Co.*, 138 F.Supp.2d 482 (2001); *Flint Riverkeeper, Inc. v. Southern Mills, Inc.*, 276 F.Supp.3d 1359 (2017)

³⁷ *Hudson Riverkeeper Fund, Inc. v. Harbor at Hastings Associates*, 917 F.Supp. 251 (1996)

³⁸ *Pine Creek Valley Watershed Assoc. v. U.S. E.P.A.*, 137 F.Supp.3d 767 (2015)

³⁹ *Sierra Club v. Virginia Electric & Power Company* 903 F.3d 403 (2018)

⁴⁰ *Anacostia Riverkeeper v. Washington Gas Light Co.*, 892 F.Supp.2d 161 (2012)

⁴¹ *Upstate Forever v. Kinder Morgan Energy Partners, L.P.*, 252 F.Supp.3d 488 (2017)

⁴² *Black Warrior Riverkeeper, Inc. v. Cherokee Mining, LLC*, 637 F.Supp.2d 983 (2009)

LLC (2009), and no violation was found in *Anacostia Riverkeeper, Inc. v. Wheeler* (2019)⁴³. A

previous district court decision in favor of the Riverkeeper was overturned in an Appellate court⁴⁴

in *Anacostia Riverkeeper, Inc. v. Jackson* (2011).

Table 9. Examples of discharge cases.

Case Name	Year	Background	Outcome Summary
BLACK WARRIOR RIVERKEEPER, INC., Plaintiff–Appellee, v. CHEROKEE MINING, LLC, Defendant–Appellant.	2008	Nonprofit environmental advocacy organization sued operator of coal mines, alleging excessive discharge of pollutants in violation of Clean Water Act (CWA). The United States District Court for the Northern District of Alabama, No. 07-01392-CV-2-WMA, William M. Acker, Jr., J., denied mine operator's motion to dismiss, and operator sought interlocutory appeal.	The Court of Appeals affirmed the original court's decision which sides with the Riverkeeper group who won the defendant's original attempt to dismiss the case. The judge held that filed CWA citizen suits prior to the duplicative rule applies in a federal court.
TENNESSEE RIVERKEEPER, INC., Plaintiff, v. 3M COMPANY et al., Defendants.	2017	Environmental organization brought action alleging that manufacturer and landfill operators discharged hazardous and solid waste and failed to carry out adequate remedial measures, in violation of Resource Conservation and Recovery Act (RCRA). Defendants moved to dismiss.	The court denied the defendant's motion to dismiss, showing that the Riverkeeper successfully showed plausible claim against the manufacturer, the case would continue.
APALACHICOLA RIVERKEEPER, et al., Plaintiffs v. TAYLOR ENERGY COMPANY, LLC, Defendant.	2013	Conservationist organizations filed Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA) citizen suits, alleging that oil company allowed unpermitted oil discharge into Gulf of Mexico. Oil company moved to dismiss for failure to state a claim or, in the alternative, for a stay.	Although some of the holdings were against the Riverkeeper group, like the alleged violation claim being facially implausible, there was an important holding in favor of the Riverkeeper group where the court held that the Riverkeeper group satisfied the "pollutant" element of the citizen suit.
UPPER CHATTAHOOCHEE RIVERKEEPER FUND, et al., Plaintiff, v. The CITY OF ATLANTA, Defendant. The United States of America and The State of Georgia, Plaintiffs, v. The City of Atlanta, Defendant.	2000	City petitioned for review of penalties assessed under consent decree entered into by it in order remedy Clean Water Act violations caused by its operation of combined sewer overflow system as part of its wastewater collection and treatment system. The District Court, Thrash, J., held that: (1) decree's force majeure clause was not applicable to dry weather overflow violations, and (2) sewer system overflow, caused by accumulation of four-day-old	This case was brought by the defendant to reassess penalties given for a CWA violation and the court held that the instance was not applicable to other types of water overflow thus the petition was denied in favor of the Riverkeeper group.

⁴³ *Anacostia Riverkeeper, Inc. v. Wheeler*, 404 F.Supp.3d 160 (2019)

⁴⁴ *Anacostia Riverkeeper, Inc. v. Jackson*, 798 F.Supp.2d 210 (2011)

		stormwater released upon removal of spillway obstruction, was dry weather overflow violation.	
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Pipelines

There were 18 case decisions focusing on pipeline issues included in the database, with favorable outcomes to Riverkeepers (6) low (see four examples in Table 10). Issues mainly consisted of reviewing pipeline projects. A successful petition to review a pipeline upgrade's environmental impact occurred in *Delaware Riverkeeper Network v. F.E.R.C.* (2014), but a petition was denied because a court found there was no CWA violation in *Delaware Riverkeeper Network v. F.E.R.C.* (2017)⁴⁵. Permit issuers were found to not act arbitrarily or capriciously in issuing a permit in *Delaware Riverkeeper Network v. Secretary Pennsylvania Department of Environmental Protection* (2016) and *Delaware Riverkeeper Network v. U.S. Army Corps of Engineers* (2017)⁴⁶. A Riverkeeper petition was deemed moot in *Gunpowder Riverkeeper v. F.E.R.C.*⁴⁷, and courts agreed that permit issuers were reasonable in *Delaware Riverkeeper Network v. Secretary of Pennsylvania Department of Environmental Protection* (2017), *Tennessee Gas Pipeline Co. LLC v. Delaware Riverkeeper Network* (2013), *Appalachian Voices v. State Water Control Board* (2019), and⁴⁸. In *Delaware Riverkeeper Network v. F.E.R.C.* (2022) and *Delaware Riverkeeper Network v. Secretary Pennsylvania Department of Environmental Protection* (2018), courts upheld a market need for projects along with deeming⁴⁹. However, there was an instance where the permit issuer was found to be arbitrary and capricious in approving a project in⁵⁰, and another in *Constitution Pipeline*

⁴⁵ *Delaware Riverkeeper Network v. F.E.R.C.*, 857 F.3d 388 (2017)

⁴⁶ *Delaware Riverkeeper Network v. Secretary Pennsylvania Department of Environmental Protection*, 833 F.3d 360 (2016); *Delaware Riverkeeper Network v. U.S. Army Corps of Engineers*, 869 F.3d 148 (2017)

⁴⁷ *Gunpowder Riverkeeper v. F.E.R.C.*, 807 F.3d 267 (2015)

⁴⁸ *Delaware Riverkeeper Network v. Secretary of Pennsylvania Department of Environmental Protection*, 870 F.3d 171 (2017); *Tennessee Gas Pipeline Co. LLC v. Delaware Riverkeeper Network* 921 F.Supp.2d 381 (2013); *Appalachian Voices v. State Water Control Board* 912 F.3d 746 (2019); *Ouachita Riverkeeper, Inc. v. Bostick* 938 F.Supp.2d 32 (2013)

⁴⁹ *Delaware Riverkeeper Network v. F.E.R.C.*, 45 F.4th 104 (2022); *Delaware Riverkeeper Network v. Secretary Pennsylvania Department of Environmental Protection*, 903 F.3d 65 (2018)

⁵⁰ *Columbia Riverkeeper v. U.S. Army Corps of Engineers*, 2020 WL 6874871 (2020)

Company, LLC v. New York State (2017), where the court affirmed⁵¹. There was a dismissal holding that a letter of recommendation being challenged was not subject to judicial review in *Columbia Riverkeeper v. U.S. Coast Guard*⁵² but a decision ordering the defendant to produce requested documents in *Columbia Riverkeeper v. F.E.R.C.*⁵³.

Table 10. Examples of pipeline cases.

Case Name	Year	Background	Outcome Summary
DELAWARE RIVERKEEPER NETWORK, et al., Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent. Tennessee Gas Pipeline Company, LLC and Statoil Natural Gas, LLC, Intervenor.	2014	Environmental groups requested the review of an environmental assessment of the Federal Energy Regulatory Commission (FERC) that originally found that a natural gas pipeline upgrade project did not have significant environmental impact.	The court granted the petition for review because it challenges the FERC's segmentation of its NEPA review and failed to address the cumulative impacts of the upgrade projects
DELAWARE RIVERKEEPER NETWORK and Maya Van Rossum, the Delaware Riverkeeper, Petitioners v. FEDERAL ENERGY REGULATORY COMMISSION, Respondent Transcontinental Gas Pipe Line Company, LLC, Intervenor	2017	The Federal Energy Regulatory Commission (FERC) issued a certificate for a natural gas pipeline expansion project, Riverkeeper filed a petition alleging CWA and NEPA violations. The Pipeline company intervened.	The court found that the Riverkeepers petition was not moot, however the court decided that FERC's approval of construction did not violate CWA or NEPA, petition denied
DELAWARE RIVERKEEPER NETWORK; Maya Van Rossum, the Delaware Riverkeeper, Petitioners v. UNITED STATES ARMY CORPS OF ENGINEERS, Respondent Tennessee Gas Pipeline Co., Intervenor	2017	The Riverkeeper filed a petition to review the Army Corps of Engineers' approval of energy company's application to build interstate pipeline project. Riverkeepers claim the Corps rejection of compression alternative was arbitrary and capricious in violation of CWA. Energy company intervened.	The court found that the Corps did not arbitrarily or capriciously ignore compression alternative and the Corps failure to conduct water-dependency analysis was harmless error. The petition was denied.

⁵¹ Constitution Pipeline Company, LLC v. New York State, 868 F.3d 87 (2017)

⁵² *Columbia Riverkeeper v. U.S. Coast Guard*, 761 F.3d 1084 (2014)

⁵³ *Columbia Riverkeeper v. F.E.R.C.*, 650 F.Supp.2d 1121 (2009)

TENNESSEE GAS PIPELINE CO. LLC, Plaintiff v. DELAWARE RIVERKEEPER NETWORK et al., Defendants Secretary Michael Krancer, Intervenor.	2013	Natural gas company brought action against environmental organizations seeking declaratory judgment that Natural Gas Act preempted Pennsylvania's Environmental Hearing Board (EHB) from reviewing permits that state's Department of Environmental Protection (PADEP) had issued to it as required by Federal Energy Regulatory Commission's (FERC) order. Company moved for preliminary injunction.	This case was brought against the Riverkeepers seeking preliminary injunction of the Riverkeepers actions in seeking review of issued permits. The court held that the natural gas company demonstrated reasonable probability of success on merits and the irreparable harm construction delays could have. The motion for preliminary injunction was granted.
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Business Conglomerates

Suits against conglomerates represented a small portion of the overall database (7) but especially involved Honeywell and 3M (see four examples in Table 11). Of these case decisions, 6 were favorable for the Riverkeeper. The Honeywell cases each outlined an alleged contamination brought forward by the Riverkeeper and fellow plaintiffs from properties owned or managed by Honeywell. Decisions from these cases led to outcomes holding the conglomerate accountable for this contamination. In *Interfaith Community Organization v. Honeywell Intern., Inc.* (2002), the Riverkeepers were granted standing to bring the lawsuit against Honeywell and in *Interfaith Community Organization v. Honeywell Intern., Inc.* (2002)⁵⁴ Honeywell was not released of liability in the contamination of the site in question. *Interfaith Community Organization v. Honeywell Intern., Inc.* (2005)⁵⁵ solidified the other decisions by again granting the Riverkeeper standing to bring the case against Honeywell as well as providing sufficient evidence requiring site cleanup by the owner. *Interfaith Community Organization v. Honeywell Intern., Inc.* (2002)⁵⁶ saw defendants make claims to place liability on each other, competing to place blame in a case that had been granted standing that contamination occurred, and that cleanup was necessary. This was followed by *Interfaith Community Organization v. Honeywell Intern., Inc.* (2005)⁵⁷, where the Riverkeepers won

⁵⁴ *Interfaith Community Organization v. Honeywell Intern., Inc.*, 204 F.Supp.2d 804 (2002)

⁵⁵ *Interfaith Community Organization v. Honeywell Intern., Inc.*, 399 F.3d 248 (2005)

⁵⁶ *Interfaith Community Organization v. Honeywell Intern., Inc.*, 215 F.Supp.2d 482 (2002)

⁵⁷ *Interfaith Community Organization v. Honeywell Intern., Inc.*, 426 F.3d 694 (2005)

a multi-million-dollar award that was appealed, but the majority of this reward was affirmed by an Appellate court. *Interfaith Community Organization v. Honeywell Intern., Inc.* (2013)⁵⁸ affirmed awards given to the Riverkeeper regarding area clean-up.. In *Tennessee Riverkeeper, Inc. v. 3M Company* (2017)⁵⁹, the Riverkeeper and plaintiffs alleged discharge of hazardous material, and the court held that the suit had standing. In the end, the case decisions involving conglomerates identified contamination sites, sought accountability and remediation, and succeeded in proving Honeywell's and 3M's liability, and were granted awards to fund the cleanup. These decisions exemplified the long and complex process of taking legal action against conglomerates and their network of subordinate companies and demonstrated that achieving environmental policy enforcement against them is feasible with persistence.

Table 11. Examples of cases against conglomerates.

Case Name	Year	Background	Outcome Summary
INTERFAITH COMMUNITY ORGANIZATION; Lawrence Baker; Martha Webb Herring; Margaret Webb; Reverend Winston Clarke; Margarita Navas; Hackensack Riverkeeper, Inc., consolidated plaintiff; William Sheehan, consolidated plaintiff; Plaintiffs, v. HONEYWELL INTERNATIONAL, INC.; W.R. Grace & Company; ECARG, Inc.; W.R. Grace, Ltd.; Roned Realty of Jersey City, Inc.; Roned Realty of Union City, Inc.; Defendants.	2002	Non-profit community organization and its members brought action against property owners alleging that chromium contamination of properties violated Resource Conservation and Recovery Act (RCRA). Property owners filed cross- claims against one another seeking relief under RCRA, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and state law. On property owners' motion for summary judgment, the District Court, Cavanaugh, J., held that: (1) owner's passive inaction could create liability under RCRA; (2) fact issue as to whether there had been release of hazardous substance at site precluded summary judgment on CERCLA cross-claim; and (3) owner could not be held liable under state law because of passive migration of hazardous substance from site.	This case had outcomes in favor and against the Riverkeeper. The court held that there could be liability on the person yet that the owner could not ultimately be held liable due to the theoretical migration of hazardous substances.
INTERFAITH COMMUNITY	2002	Non-profit community organization and its members brought action against past and current	This case was favorable as the court did not

⁵⁸ *Interfaith Community Organization v. Honeywell Intern., Inc.*, 726 F.3d 403 (2013)

⁵⁹ *Tennessee Riverkeeper, Inc. v. 3M Company*, 234 F.Supp.3d 1153 (2017)

ORGANIZATION; Lawrence Baker; Martha Webb Herring; Margaret Webb; Reverend Winston Clarke; Margarita Navas; Hackensack Riverkeeper, Inc., consolidated Plaintiff; William Sheehan, consolidated Plaintiff, Plaintiffs, v. HONEYWELL INTERNATIONAL, INC.; W.R. Grace & Company; Ecarg, Inc.; W.R. Grace, Ltd.; Roned Realty of Jersey City, Inc.; Roned Realty of Union, Inc., Defendants.		site owners and their parent corporations alleging that chromium contamination of properties violated Resource Conservation and Recovery Act (RCRA). Site owners filed cross- claims against one another seeking relief under RCRA, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and state law. Site owners moved to dismiss or for summary judgment on cross-claims and one site owner moved for reconsideration of earlier order, 204 F.Supp.2d 804, which dismissed a cross-claim under the New Jersey Spill Act. Consolidated plaintiffs moved for stay of further proceedings in consolidated action, and consolidated defendant moved for dismissal or stay of consolidated proceedings. The District Court, Cavanaugh, J., held that: (1) non-owner of site did not have standing to assert cross-claims against parent corporation of allegedly polluting site owner; (2) factors did not weigh in favor of piercing corporate veil; (3) parent corporation was not an operator within meaning of CERCLA; (4) fact issues existed as to whether site cleanup costs were recoverable under CERCLA; and (5) fact issues existed as to when site owners actually acquired sites, precluding judgment on state law claims.	allow dismissal by the defendant overall holding that the Riverkeeper had standing to bring this case.
TENNESSEE RIVERKEEPER, INC., Plaintiff, v. 3M COMPANY et al., Defendants.	2017	Environmental organization brought action alleging that manufacturer and landfill operators discharged hazardous and solid waste and failed to carry out adequate remedial measures, in violation of Resource Conservation and Recovery Act (RCRA). Defendants moved to dismiss.	The court denied the defendant's motion to dismiss, showing that the Riverkeeper successfully showed plausible claim against the manufacturer, the case would continue.
INTERFAITH COMMUNITY ORGANIZATION; Lawrence Baker; Martha Webb Herring; Margaret Webb; Reverend Winston Clarke; Margarita Navas; Hackensack Riverkeeper, Inc., consolidated plaintiff; William Sheehan, consolidated plaintiff; Plaintiffs, v. HONEYWELL INTERNATIONAL, INC.; W.R. Grace & Company; ECARG, Inc.; W.R. Grace, Ltd.; Roned Realty of Jersey City, Inc.; Roned Realty of Union City, Inc.; Defendants.	2002	Non-profit community organization and its members brought action against successor-in-interest of chemical manufacturer and current owners of former manufacturing site, which was contaminated with chromium, under Resource Conservation and Recovery Act (RCRA), seeking declaratory and injunctive relief. On successor's motion to dismiss for lack of standing, plaintiffs' motions for partial summary judgment, and owners' motion for summary judgment, the District Court, Cavanaugh, J., held that: (1) plaintiffs had standing to bring lawsuit, and (2) fact questions as to whether there existed imminent and substantial endangerment to health or environment in county because of chromium contaminated site or as to whether there was present risk of such imminent and substantial harm, precluded summary judgment on issue of whether successor was liable under RCRA.	The court held that the Riverkeeper had standing to bring the suit denying the defendant's motion to dismiss in favor of the Riverkeeper.

Discussion

Federal Government Enforcement

Riverkeepers challenged environmental violations that did not appear to alarm the EPA and set new precedents to deter future actions. They played a role in showing how an independent third party can be critical in helping enforce existing environmental policy. While the EPA is meant to be the enforcement agency, it is also a part of the federal government, so while it has its own guidelines, deadlines, and priorities, it may ignore certain types of violations if they are deemed less harmful or come in the way of development or energy production priorities, or if a lack of resources prevents cases against the EPA. Riverkeepers have found the federal government sometimes failed to enforce policy, suggesting a need for third party watchdogs.

The Structure of Riverkeepers

One advantage of Riverkeepers as enforcement agents seen from this research is the structure within which they operate. They exist at a local level, providing them the ability to closely surveil actions in their particular locales, something that a national agency such as the EPA is less able to do. The eastern United States has seen the most benefit from this structure, where there is a higher concentration .

Involvement of Environmentally Focused Law Clinics or Centers

The RRCD contains 30 cases that utilized environmental law clinics as counsel and 41 cases that utilized an environmental center or law firm for legal representation. This is important in understanding how many Riverkeepers are able to bring lawsuits forward; many of clinics or centers

provide free or reduced cost legal services. Thus, the existence of these services is likely essential for the success of Riverkeeper entities in the courts.

Study Limitations

This study has several limitations that should be acknowledged. First, the RRCD database includes only *reported* case opinions or decisions, which means that unreported decisions, administrative rulings, settlements, consent decrees, and cases resolved before a published opinion are necessarily excluded. As a result, the analysis reflects only a subset of the legal activity undertaken by Riverkeeper organizations. Second, Westlaw served as the sole legal research platform for case collection, and its limitations were described earlier. Differences in indexing practices across legal databases (e.g., Lexis, Bloomberg Law) and uneven historical coverage may have resulted in omissions, particularly for older or lower-visibility decisions. Finally, although the qualitative coding procedures followed established content-analysis guidelines, the classification of case outcomes and thematic categories required interpretive judgment by the co-authors. This introduced an element of coder subjectivity that may influence the categorization of complex or mixed decisions. Taken together, these limitations indicate that the findings should be interpreted as characterizing the portion of Riverkeeper litigation activity that is both publicly reported and consistently indexable through Westlaw, rather than the full universe of Riverkeeper-initiated environmental enforcement.

Concluding Thoughts

The original premise of this research was to look at enforcement of environmental policy in the United States. The literature we read indicated that policy enforcement by the federal government was declining as polluters found ways to do so without consequence. We then discovered the Riverkeeper framework and how it was stepping in to fill gaps in enforcement of

environmental law. This approach to environmental policy enforcement could be replicated for enforcement and compliance of other environmental law and policy.

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AUTHOR NOTES

Data Availability Statement

The Reported Riverkeeper Case Decisions (RRCD) database will be made available upon reasonable written request to the corresponding author.

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