B. Political Question Doctrine

GenOn argues in the alternative that the Class's claims should be barred by the political question doctrine based on the existence of the Clean Air Act. "The political question doctrine excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution to the halls of Congress or the confines of the Executive Branch." *Japan Whaling Ass'n v. Am. Cetacean Soc.*, 478 U.S. 221, 230 (1986). No court has ever held that such a constitutional commitment of authority regarding the redress of individual property rights for pollution exists in the legislative branch. Indeed, if such a commitment did exist, the Supreme Court would not have decided *Ouellette* in the first place. Accordingly, we reject this argument.

III. CONCLUSION

"In all pre-emption cases . . . we start with the assumption that the . . . powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Medtronic, Inc., v. Lohr*, 518 U.S. 470, 485 (1996). We see nothing in the Clean Air Act to indicate that Congress intended to preempt source state common law tort claims. If Congress intended to eliminate such private causes of action, "its failure even to hint at" this result would be "spectacularly odd." *Id.* at 491. The Supreme Court's decision in *Ouellette* confirms this reading of the statute. Accordingly, we hold that the Class's claims are not preempted. We will reverse the decision of the District Court and remand this case for further proceedings.