

CLIENT ALERT

CITIZEN SUIT WATCH: U.S. Supreme Court Agrees to Review Ninth Circuit Decision Requiring Clean Water Act Permits for Forest Roads

June 25, 2012

On June 25, 2012, the U.S. Supreme Court granted two petitions for writs of certiorari to review the decision of the U.S. Court of Appeals for the Ninth Circuit in *Northwest Environmental Defense Center v. Brown*, 640 F.3d 1063 (2011). The Ninth Circuit had ruled that storm water runoff from forest roads is subject to permitting under Clean Water Act section 402, 33 U.S.C. § 1342. The Ninth Circuit rejected the longstanding position of the U.S. Environmental Protection Agency ("EPA") that section 402 permits were not required for such runoff under the Agency's 1976 Silvicultural Rule – a position that EPA reaffirmed in its 1990 stormwater regulations implementing the 1987 amendments to the statute. (For a more detailed discussion of the Ninth Circuit's decision, [click here](#))

Crowell & Moring filed an *amicus* brief on behalf of the National Alliance of Forest Owners, the American Farm Bureau Federation, and eleven other state and national trade associations all representing forest landowners (together, "*Amici*";) in support of the two petitions, focusing on the Ninth Circuit's jurisdictional analysis, in addition to the court's analysis of the merits under the Clean Water Act. (For a more detailed discussion of the *Amici* brief, [click here](#).)

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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