

## CLIENT ALERT

### Environmental Petitioners ask Second Circuit for Rehearing

Apr. 15, 2005

Environmental Petitioners yesterday (April 14, 2005) asked the Second Circuit for a rehearing on a critical element of the court's February 28, 2005 decision on EPA's 2003 CAFO Rulemaking. *Waterkeeper Alliance, Inc. et al. v. EPA*, (No. 03-4470, et al.). The pleading asks the court to overturn its decision that CAFOs do not have a "duty to apply" for an NPDES permit. The pleading also asks the court — if it refuses to reverse itself on the "duty to apply" issue — to require CAFOs to have an approved nutrient management plan in an NPDES permit to qualify for the "agricultural stormwater" exemption from NPDES permitting.

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