Yesterday, the Supreme Court ruled 9-0 in favor of the Los Angeles County Flood Control District and overturned a decision made by the 9th Circuit Court of Appeals which found there could be a "discharge" under the Clean Water Act when water is moved from one part of a river to another. The Circuit Court originally agreed with environmental groups that concrete, channeled portions of the Los Angeles and San Gabriel Rivers, which carry storm water from numerous other upstream municipalities, constituted a point source for a discharge of pollutants.

CSG signed on to a friend of the court brief in 2012, filed by the State and Local Legal Center on behalf of the southern California water district, urging the justices to uphold a precedent set in a 2004 Supreme Court case which found that an addition of a pollutant only occurs if a pollutant is transferred from one “meaningfully distinct” water body into another. In essence, this means transporting water between two sections of the same water body does not constitute a “discharge” that requires a permit under federal law. Under the ruling by 9th Circuit Court, the county would be solely responsible for storm water runoff pollution it has little control over - including the discharges of over 80 upstream municipalities.

In an opinion issued by Justice Ruth Bader Ginsburg, she stated that the 9th Circuit's opinion was flawed and based on set of mistaken facts in the case. She decisively opined:

"..the transfer of polluted water between "two parts of the same water body" does not constitute a discharge of pollutants under the CWA (Clean Water Act). We derived that determination from the CWA’s text, which defines the term “discharge of a pollutant” to mean “any addition of any pollutant to navigable waters from any point source.” (emphasis added). Under a common understanding of the meaning of the word “add,” no pollutants are “added” to a water body when water is merely transferred between different portions of that water body. See Webster’s Third New International Dictionary 24 (2002) (“add” means “to join, annex, or unite (as one thing to another) so as to bring about an increase (as in number, size, or importance) or so as to form one aggregate”). “As the Second Circuit [aptly] put it. . . . , ‘[i]f one takes a ladle of soup from a pot, lifts it above the pot, and pours it back into the pot, one has not “added” soup or anything else to the pot.’”

Gail Farber, the Chief Engineer and Director of the LA County Flood Control District, issued a statement affirming the Court's ruling and saying, “Our work is not done. The fight for clean water is ongoing and remains a collective priority for the District and our many water quality stakeholders within the region.”

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