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California Land Use & Development Law Report

## **Ninth Circuit Court Paves the Way for Regulation of Stormwater Discharges Under RCRA**

The Ninth Circuit Court of Appeals recently ruled that the anti-duplication provisions of the Resource Conservation and Recovery Act (RCRA) do not apply in the absence of a stormwater discharge permit issued under the Clean Water Act. Therefore, unregulated stormwater discharges are potentially subject to RCRA citizen suits and specifically imminent and substantial endangerment suits under 42 USC § 6972(A)(1)(B). In our report on this case, prepared by [Jeffrey L. Hunter](#), we look at the background of the decision in *Ecological Rights Foundation v. Pacific Gas Electric Company* and the potential impact on owners of retail, commercial and warehouse facilities that are not required to obtain coverage under a stormwater discharge permit. Our report is available [here](#).

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