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NOT A POLLUTANT, LEGISLATIVE AND REGULATORY UPDATE

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A recent US Supreme Court ruling regarding the transfer of "pollutants" from one portion of a river to another is a win for miners.

The Natural Resources Defense Council sued the Los Angeles County Flood Control District, alleging the county was polluting a stream when it took polluted water from one portion of a river and transferred it to another portion of the same river through a concrete channel.

The Ninth Circuit had ruled that the water transfer violated the Clean Water Act. In a unanimous decision, the US Supreme Court reversed the decision of the Ninth Circuit.

The Court stated, "...the transfer of polluted water between two parts of the same water body does not constitute a discharge of pollutants under the CWA. 541 U. S., at 109-112. We derived that determination from the CWA's text, which defines the term 'discharge of a pollutant' to mean '...the addition of any pollutant to navigable waters from any point source.' 33 U.S.C. §1362(12). 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." A link to the decision is available on our website under the Legislative and Regulatory Update column for February 2013.

One of the major regulatory tools agencies have used against in-stream placer miners-and suction dredgers in particular-has been struck down by this decision!

Other courts have also blocked overzealous water regulators. In Virginia, District Judge Liam O'Grady ruled that the EPA exceeded its authority by attempting to regulate storm water runoff as a pollutant.

And in Siskiyou County, California, Superior Court Judge Karen Dixon found that the California Department of Fish & Game overstepped its authority by requiring permits for farmers and ranchers to take water from the Shasta and Scott Rivers.

This case over-rules Rybachek use "of mag"

be a pollutant