

End without a means? 'General Prohibitions in the Clean Water Act

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In the *Daily Journal* article, “Ends without a means? ‘General Prohibitions’ in the Clean Water Act,” partner Whitney Hodges and special counsel Brooke Miller explore the City and County of San Francisco’s dispute against the Environmental Protection Agency (EPA), argued before the Supreme Court on October 16, over the interpretation and application of the Clean Water Act. In particular, San Francisco challenged the EPA’s authority to impose “General Prohibitions” under National Pollutant Discharge Elimination System (NPDES) permits without providing clear guidance on how to comply. San Francisco’s contention centers on the argument that the Clean Water Act does not empower the EPA to enforce water quality standards through General Prohibitions without specifying effluent limitations.

This dispute addresses the broader issue of regulatory authority and compliance obligations under the Clean Water Act, cornerstone environmental legislation aimed at reducing pollution in U.S. waters since 1972. It raises critical questions about the balance of responsibilities between regulatory bodies and permittees, particularly in the context of ensuring water quality standards are met. The EPA’s pursuit of penalties against San Francisco, potentially amounting to billions of dollars, underscores the high stakes involved.

The Court’s decision may have profound implications for the interpretation of the Clean Water Act and the regulatory landscape for water pollution control in the United States. With the Court appearing divided, the outcome may hinge on whether the EPA can justify the need for its reliance on General Prohibitions without specific effluent limitations. This case exemplifies the ongoing tension between environmental protection goals and the practicalities of regulatory enforcement, with significant implications for how water quality standards are implemented and achieved nationwide.

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Practice Areas

Environmental