Still Responsible

By: Kaspersen, Janice: Stormwater Editor Comments

Last week, Los Angeles County—and potentially many other stormwater permittees—suffered a setback when a federal appeals court ruled against it in a high-profile case about who is responsible for the pollutants in its waterways.

More than a year ago we noted that the US Supreme Court was set to hear the case, which many in the stormwater field expected would have nationwide repercussions no matter which way it was decided. But the Supreme Court sent the case back, and last Thursday a federal appeals court in Los Angeles ruled again that Los Angeles County is responsible for the high levels of pollution in its Los Angeles and San Gabriel Rivers, which ultimately discharge to the Pacific Ocean.

The county’s position has been that because the sources of much of the pollution are in watersheds upstream—out of its jurisdiction and control—it should not be solely liable for treating pollutants that end up in its waterways.

The 9th Circuit Court of Appeals, which issued last week’s ruling, had previously said the county was responsible. The court has not yet said how it expects the county to comply with the ruling, and the county still has an option to appeal the decision.

The Natural Resources Defense Council, one of the plaintiffs in the case, applauded the decision. The assistant director of the county's Department of Public Works said the court is taking too simple a view of the problem, noting “This is what happens when the courts get involved with nature.”