

ENVIRONMENTAL ALERT – UPDATE

A COMING WAVE OF ENVIRONMENTAL CASES?

**PLEASE JOIN AN AKIN GUMP CONFERENCE CALL ON FRIDAY,
JANUARY 12 AT 2:00 P.M. ET**



As predicted in our Environmental Alert dated January 5, 2007, the Supreme Court granted cert in *EPA v. Defenders of Wildlife*, No.06-549, consolidated with *National Association of Homebuilders v. Defenders of Wildlife*, No. 06-340, the first in a series of environmental cases expected to be considered by the Court this month. The petitioners sought review on whether federal agencies must comply with the Endangered Species Act when implementing other federal statutes. The Court also directed the parties to brief an additional question: “Whether the court of appeals correctly held that the Environmental Protection Agency’s decision to transfer pollution permitting authority to Arizona under the Clean Water Act, see 33 U.S.C. §1342(b), was arbitrary and capricious because it was based on inconsistent interpretations of Section 7(a)(2) of the Endangered Species Act of 1973, 16 U.S.C. §1536(a)(2); and, if so, whether the court of appeals should have remanded to the Environmental Protection Agency for further proceedings without ruling on the interpretation of Section 7(a)(2).”

During a conference call on Friday, January 12, 2007, at 2:00 p.m. ET, Akin Gump attorneys and others will be discussing this and several other important environmental cases on which the Court is expected to act soon. We intend to summarize the issues involved in these cases, the prospects that certiorari will be granted and issues on which interested parties may wish to consider filing amicus briefs. We also will answer any questions participants may have. Duane Desiderio, lead counsel for the National Association of Home Builders, will also participate in the call. The call is expected to last approximately one hour. We hope you will be able to join in what we expect to be an informative conference call.

CONFERENCE CALL INFORMATION

Time: Friday, January 12, 2:00 p.m. ET (1:00 pm CT / 12:00 pm MT / 11:00 am PT)

Call-in number for participants: (719) 457-2634 or (800) 967-7185

Confirmation Code: 4781954

Title: Environmental Cases

Please RSVP to Amy Powell at apowell@akingump.com. To help ensure that the conference begins in a timely manner, please dial in 5 to 10 minutes prior to the scheduled start time. The call will be recorded and may be posted on the Akin Gump Web site.

Akin Gump has posted the briefs in the cases at <http://extranet.accessakingump.com/SupremeCourt/EnviroCases.html>.

See our first alert at <http://www.akingump.com/docs/publication/936.pdf>.

ADDITIONAL INFORMATION

Akin Gump's **environment and land use practice** is headed by Paul Gutermann, who has practiced environmental law in Washington, D.C., for over 25 years and has argued in state supreme courts and in several circuit courts of appeal, and has represented amici in the U.S. Supreme Court. Included among the group's lawyers are former EPA regional counsels, a former assistant section chief of the Environmental Enforcement Section at the Department of Justice and former technical personnel at EPA headquarters in Washington, D.C.

Members of Akin Gump's environment and land use practice have long and varied experience in environmental law and litigation. We have handled suits and appeals arising under all the major environmental statutes, including the Comprehensive Environmental Response Compensation and Liability Act; the National Environmental Policy Act; the Endangered Species Act; the Resource Conservation and Recovery Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; and the Federal Insecticide, Fungicide and Rodenticide Act. In every case, of whatever size or complexity, we bring to the table "old-fashioned" courtroom lawyer skills of preparation, persistence and proficiency with "new-age" technologies designed to inform and persuade the judge or jury. Throughout, we work closely with Akin Gump's appellate practice to ensure that the matter is best positioned for subsequent appeals.

Attorneys in Akin Gump's **Supreme Court practice** have handled matters spanning the gamut of federal law, including constitutional questions of free speech, punitive damages and criminal law; statutory issues of environmental, labor and disability law; and regulatory matters including significant telecommunications questions. In these matters, the firm regularly prepares petitions for certiorari and briefs in opposition to certiorari; organizes amicus efforts and files amicus briefs at both the petition and merits stages; represents clients before the solicitor general in cases in which the federal government is considering participating; and litigates cases on the merits in both briefing and oral argument.

Akin Gump's Supreme Court practice is led by Thomas Goldstein, one of the nation's leading Supreme Court advocates. Mr. Goldstein has argued 17 cases before the Court and was counsel in roughly 10 percent of all the cases argued during the October 2005 Term. He also teaches Supreme Court litigation at both Stanford and Harvard Law Schools and is the creator of SCOTUSblog.com, a widely read Weblog devoted to coverage of the Supreme Court. *The National Law Journal* has recognized Mr. Goldstein as one of the nation's 100 most influential lawyers.

CONTACT INFORMATION

If you have questions about the January 12 conference call, please contact:

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