

Kelley Drye Wins Victory for the American Forest & Paper Association in Upholding an Environmental Protection Agency Regulation

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Washington, DC — Kelley Drye's Washington, DC office helped achieve an important victory in the federal court of appeals today on behalf of the American Forest & Paper Association, Inc. (AF&PA). AF&PA asked Kelley Drye to defend an Environmental Protection Agency (EPA) rule known as the Cluster Rule, which contains stringent regulations limiting wastewater discharges and air emissions.

"AF&PA had participated vigorously in the EPA rulemaking and had done extensive research at its own expense, to make sure the new regulations achieve the high level of environmental protection required by the Clean Water Act, but without imposing unnecessary costs," "We successfully argued, along with EPA, that this rule strikes a reasonable balance between the strong goals of the federal Clean Water Act, and the need to avoid economically unwise treatment for treatment's sake."

In the ruling, *National Wildlife Federation, et al. v. Environmental Protection Agency*, No. 99-1452, the court rejected challenges to EPA regulations, issued under the Clinton Administration, which established wastewater discharge limitations for pulp and paper mills, based on the Best Available Technology for pollution control.

AF&PA was defending the EPA rule, despite the \$1 billion estimated cost to the pulp and paper industry, after AF&PA had worked closely with the EPA to assure that the new requirements, although strict, would be cost-effective and economically achievable. The rule was the result of extensive cooperative research and analysis by EPA and industry and contained input from both the public and environmental groups.

A challenge to the rule was brought by several environmental groups who sought more stringent limitations, based on even more extensive additional pollution control technology. AF&PA had provided data to EPA, however, which showed that such technology would cost an additional \$1 billion, but would achieve little or no environmental benefit. In the ruling, the Court upheld EPA's determination that the tighter limits sought by the environmental groups would cause serious economic damage for the pulp and paper industry, without achieving substantial additional environmental improvement.

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Litigation, and Trade Associations.