



Ecological Rights Foundation



NEWS RELEASE

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**Our Children's Earth Foundation
Ecological Rights Foundation**

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EPA MUST CONSIDER THE BEST TECHNOLOGY FOR WATER POLLUTION DISCHARGES

San Francisco, Calif. — A San Francisco federal appeals court has ruled that the U.S. Environmental Protection Agency (EPA) must annually take into account new water pollution discharge technology when reviewing nationwide regulations setting limits on water pollution releases.

The U.S. Ninth Circuit Court of Appeals decision is the result of a case brought in 2004 by Our Children's Earth Foundation (OCE) and the Ecological Rights Foundation (ERF), and means that the federal government will not be allowed to exempt most industries from updating EPA's water pollution regulations.

"This change simply means that our water is going to be cleaner," said Tiffany Schauer, OCE's executive director. "The Ninth Circuit's ruling is an important vindication for our laws meant to secure clean water."

"By ignoring new technologies for reducing water pollution, the Bush administration had launched a stealth campaign against the Clean Water Act," said Ecological Rights Foundation spokesperson, Fredric Evenson. "In effect, the Ninth Circuit's ruling tells the EPA to stop stalling and get back to the business of protecting our nation's waters."

EPA issued the regulations at stake, known as "effluent guidelines," under the federal Clean Water Act, mostly in the 1970s and 1980s. The regulations are supposed to limit all industries' pollution discharges in the nation to the level attainable with the best available pollution control technology. Though the Clean Water Act requires EPA to review these regulations annually and to make them more stringent as warranted by technological advance, EPA has never updated most of these decades-old regulations. In recent years, the Bush Administration announced a policy whereby the EPA would narrow its review from 56 industry categories to two to three categories based on which industries posed the greatest water pollution threat. Under the new policy, all non-selected industries would then be exempted from regulatory review.

Industry groups had intervened in the case to support the new policy. The Ninth Circuit emphasized that the administration's claim that the Clean Water Act does not require EPA to review across all categories of industry "strains credulity to the breaking point." The Ninth Circuit ruling

reversed a San Francisco district court judge's decision that had sided with EPA. The case, Our Children's Earth Foundation, et al., v. EPA, et al., will now be remanded to the district court for further proceedings.

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