

Companies Learn Lesson About Meeting Water Permit Conditions

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Carlton Fields Miami Shareholder Neal McAilely was quoted in the *Bloomberg BNA* article “Companies Learn Lesson About Meeting Water Permit Conditions.” The article discusses how a West Virginia coal company learned you can’t just do what is required under the Clean Water Act permit, but you also have to ensure that the water discharged meets water quality standards. McAilely shared:

The Fourth Circuit ruling doesn’t represent a major shift in law related to Clean Water Act liability, but it does show how the environmental groups have “exploited” of the “catchall provision” in the discharge permit. I wouldn’t be surprised to find an increase in lawsuits rooted in this provision, but the burden is on the plaintiff to prove that the discharges do cause or contribute to a violation of water quality standards. And that won’t be possible in every case. Permit seekers must seek very precise language in their discharge permits going forward to guard against liability.

[READ the article.](#) (Subscription required for full access).

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Neal McAilely

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