

11-460 LOS ANGELES CTY. FLOOD CONTROL V. NATURAL RESOURCES, ET AL.

DECISION BELOW: 673 F3d 880

LOWER COURT CASE NUMBER: 10-56017

QUESTION PRESENTED:

The Clean Water Act regulates the addition of pollutants to the navigable waters of the United States, including pollutants stemming from municipal stormwater systems. 33 U.S.C. §1342(p).

The questions presented by this petition are:

1. Do "navigable waters of the United States" include only "naturally occurring" bodies of water so that construction of engineered channels or other man-made improvements to a river as part of municipal flood and storm control renders the improved portion no longer a "navigable water" under the Clean Water Act?
2. When water flows from one portion of a river that is navigable water of the United States, through a concrete channel or other engineered improvement in the river constructed for flood and stormwater control as part of a municipal separate storm sewer system, into a lower portion of the same river, can there be a "discharge" from an "outfall" under the Clean Water Act, notwithstanding this Court's holding in *South Florida Water Management District v. Miccosukee Tribe of Indians*, 541 U.S. 95, 105 (2004), that transfer of water within a single body of water cannot constitute a "discharge" for purposes of the Act?

LIMITED TO QUESTION 2 PRESENTED BY THE PETITION.

CERT. GRANTED 6/25/2012