

# Legality Matters



If someone breaks into another's home and leaves with an armful of personal belongings, we call it burglary. Intimidate a passer-by on the streets and take his or her money, and you will likely find yourself behind bars for robbery. So why when a construction company, industrial manufacturer, municipality or other entity pollutes water bodies—damaging and even taking from the public a shared natural resource—do some hesitate to label the actions criminal?

Environmental advocate Robert F. Kennedy, Jr. posed similar questions in his opening speech at this year's StormCon, and it got me thinking. Just as

legislation against burglary, robbery and similar crimes aims to protect people and their possessions, the federal Clean Water Act is designed to protect and restore "the chemical, physical and biological integrity" of our nation's waterways. It calls for controlling point and nonpoint source pollution by, for example, conducting research to develop new technologies, providing federal financial assistance for public treatment facilities and not only developing management programs but also ensuring their implementation.

Media coverage of crime promotes, along with other factors, a generally collective denunciation of offenders. But reporting of CWA violations and thus an understanding of and appreciation for the law is not so commonplace. However gradually or rapidly, infringements directly affect the general population, and lost plant and animal species, recreational opportunities and scenery are not as easily replaced as stolen material possessions. The potential for lost human health and life, too, becomes a very real danger when toxins enter water supplies.

One step in the right direction is the seven-figure CWA violation penalty an Arizona-based developer and his contractor recently agreed to pay. In 2005, the U.S. Justice Department and U.S. Environmental Protection Agency filed a complaint alleging illegal bulldozing, filling and diverting activities near the Santa Cruz River and a major tributary, and the resulting \$1.25-million civil penalty is one of the heftiest in EPA Section 404-enforcement history. This price tag reflects the importance of the CWA and may set a precedent for future cases.

As government agencies administer more violation penalties and today's "greener" society becomes less accepting of environmental polluters, it is promising that legal issues surrounding water quality will receive increased attention, respect and adherence. Moral obligation alone will not suffice, nor will empty threats; it is enforcing the CWA and making penalties known to business owners, communities and residents that will create urgency and encourage creativity in supporting public awareness, funding and compliance initiatives.

Caitlin Cunningham, managing editor  
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