

## Supreme Court Upholds Right to Pre-Enforcement Judicial Review of EPA Compliance Orders under the AAPA

On March 21, 2012 the United States Supreme Court in *Sackett v. Environmental Protection Agency* unanimously held that an Environmental Protection Agency ("EPA") Clean Water Act compliance order was subject to immediate judicial review under the Administrative Procedure Act. 132 S. Ct. 1367 (2012). In reversing the Ninth Circuit's holding that the Clean Water Act "preclude[s] pre-enforcement judicial review of compliance orders," the Court ensured that courts remain open for challenges without requiring citizens subject to compliance orders to wait for EPA enforcement action. See *Sackett v. Environmental Protection Agency*, 622 F.3d 1139, 1144 (2010); *Sackett*, 132 S. Ct. at 1374. The Court's rejection of the government's position – a position that, in the words of Justice Alito, "would have put the property rights of ordinary Americans entirely at the mercy of [EPA] employees" – is a victory for citizens who may be subject to regulation under the Clean Water Act.

The case stemmed from a Section 309 compliance order issued by EPA to Michael and Chantell Sackett asserting that the Sackett's property was a wetland subject to the Clean Water Act and that the Sacketts had discharged pollutants into waters of the United States by filling their property without a permit. The order required the Sacketts to remove the fill material and restore the property to its original condition or face civil or administrative penalties of up to \$32,500 per day of violation.

EPA denied the Sackett's request for hearing to contest the Agency's assertion of Clean Water Act jurisdiction and the Sacketts filed suit in federal district court in Idaho under Chapter 7 of the Administrative Procedure Act ("APA") which provides for judicial review of "final agency action for which there is no other adequate remedy in a court." See 5 U.S.C. § 704. The district court dismissed the action for lack of subject matter jurisdiction concluding that the Clean Water Act precludes judicial review of compliance orders prior to institution of enforcement proceedings by EPA. The district court's order was affirmed by the 9<sup>th</sup> Circuit Court of Appeals, and the Sacketts sought U.S. Supreme Court review.

The Supreme Court's analysis was rooted in statutory construction. The Court noted that the compliance order was a "final agency action" under the APA in that it determined the Sackett's obligations and marked the consummation of EPA's decision making process. There was no other adequate remedy in a court because judicial review under the Clean Water Act could only be initiated by EPA, not the Sacketts.

Finally, the Court rejected the government's contention that Section 701 of the APA, which excludes review "to the extent that [other] statutes preclude judicial review," blocked the Sackett's suit. The government argued that the Clean Water Act statutory scheme precluded review under the APA by providing EPA a choice between issuing a compliance order and instituting a civil action and that judicial review of compliance orders would undermine this choice. The government also contended that immediate judicial review of these orders was incompatible with the immediate review provided for orders assessing penalties in another portion of the Act. Finally, the government alleged that immediate review would interfere with the efficiency sought by the Clean Water Act.

The Court rejected each of the government's arguments in holding that the APA's presumption of reviewability could not be overcome by these contentions. The Court stated:

The APA's presumption of judicial review is a repudiation of the principle that efficiency of regulation conquers all. And there is no reason to think that the Clean Water Act was uniquely designed to enable the strong-arming of regulated parties into "voluntary compliance" without the opportunity for judicial review – even judicial review of the question whether the regulated party is within the EPA's jurisdiction.

*Sackett*, 132 S. Ct. at 1374. Therefore, the Court held that judicial review of the compliance order was not precluded by the Clean Water Act and reversed the decision of the 9<sup>th</sup> Circuit. The Court thus assured that citizens facing severe penalties for violation of a compliance order need not await EPA enforcement of the compliance order prior to seeking judicial review.

Justice Alito's concurring opinion made clear that the Court's decision was influenced at least in part by the "notoriously unclear" reach of the Clean Water Act. In appealing to Congress to clarify the jurisdictional reach of the Clean Water Act, Justice Alito stated:

The Court's decision provides a modest measure of relief. At least, property owners like petitioners will have the right to challenge the EPA's jurisdictional determination under the Administrative Procedure Act. But the combination of the uncertain reach of the Clean Water Act and the draconian penalties imposed for the sort of violations alleged in this case still leaves most property owners with little alternative but to dance to the EPA's tune.

*Id.* at 1375 (Alito, J. concurring). Therefore, while the *Sackett* decision is a victory for regulated parties, it may also signal that a much larger victory—clarification by EPA or Congress regarding the jurisdictional reach of the Clean Water Act—may be on the horizon.

## ADDITIONAL ITEMS OF INTEREST:

### BP Oil Spill Updates

#### First Arrest Made in BP Oil Spill

Kurt Mix, a former BP engineer, was arrested in April and charged with obstruction of justice for allegedly destroying evidence related to Deepwater Horizon oil spill. According to federal authorities, Mix deleted hundreds of text messages regarding the amount of oil spilling from the well despite receiving legal notices to preserve the evidence. The court has granted Mix's motion to review privileged BP documents that he believes would prove his innocence. Mix has also sought clarification regarding which of the hundreds of text messages the government alleges are relevant to the charge.

#### Gulf Coast Claims Facility Audit Reveals Errors

An audit of the Gulf Coast Claims Facility (GCCF), the facility that processes claims from the April 2010 Deepwater Horizon spill, resulted in additional payments totaling over \$64 million to individuals and businesses affected by the spill that were initially denied payments or received less compensation than they were entitled. The audit, which was conducted by independent auditor BDO Consulting, also found overpayments in certain situations, but the GCCF has stated that it has no intention of attempting to recover those overpayments.

### Civil Enforcement

#### Natural Gas Pipeline Spills Result in \$1 Million Civil Penalty

In May, Mid-America Pipeline Company LLC (MAPCO) and Products Operating LLC agreed to pay a civil penalty of \$1,042,000 to resolve Clean Water Act violations for spills along the West Red Pipeline, a 2,769-mile pipeline that carries mixed natural gas products between Kansas and Minnesota. In addition to the monetary penalty, the companies will also take measures to improve spill reporting and identify and prevent harm from the spills.

### [First Civil Penalty Instituted for Violation of Marine Diesel Engine Air Rules](#)

Coltec Industries, Inc. and National Steel and Shipbuilding Company have settled claims of violation of the Clean Air Act and EPA's marine diesel engine rules, which require marine diesel engines sold in the United States to be covered by a certificate of conformity and bear an EPA label stating that the engine meets applicable emissions standards. The companies have agreed to pay \$280,000 in civil penalties and perform a \$500,000 environmental project.

### [Owner of Alabama and Indiana Chemical Manufacturing Facilities to Pay Fine](#)

SABIC Innovative Plastics US LLC and SABIC Innovative Plastics Mt. Vernon LLC will pay a \$1 million civil penalty for alleged Clean Air Act violations at its Mt. Vernon, Indiana and Burkeville, Alabama plants. The companies have also agreed to improve environmental practices regarding leak detection and repair at a cost of approximately \$1.3 million. The agreement will result in a reduction of hazardous air pollutant emissions by up to 136.7 tons per year.

## [Criminal Enforcement](#)

### [Owner of Hog Farm Ordered to Pay \\$1 Million in Restitution](#)

In July, Freedman Farms, Inc. was ordered to pay \$1 million in restitution for damage to North Carolina wetlands resulting from discharges of hog waste from the company's hog farm to a tributary of the Waccamaw River in violation of the Clean Water Act. The company allowed waste from approximately 4,800 hogs to be discharged through White Marsh, a large wetlands complex, rather than sending the waste to lagoons from treatment and disposal.

### [Louisiana Man Convicted for Discharges of Industrial Wastewater](#)

In March, John Tuma was convicted of violations of the Clean Water Act resulting from illegal discharges of industrial wastewater from the Arkla Disposal Service, Inc. facility directly to the Red River in Shreveport, Louisiana as well as to the city sewer system. Tuma's son, Cody Tuma was also charged, but pleaded guilty in February to one count of negligently discharging pollutants without a permit.

### [Texas Company Indicted for Employee Deaths Caused by Hydrogen Sulfide](#)

In July, a federal grand jury in Texas indicted Port Arthur Chemical and Environmental Services LLC and its former president Matthew L. Bowman for 13 counts including conspiracy to violate the Hazardous Materials Transportation Uniform Safety Act (HMTUSA), failure to implement appropriate controls to protect employees in violation of the Occupational Safety and Health Administration Act (OSHA), transportation of hazardous materials without placards and with false documents in violation of HMTUSA, violations of the Resource Conservation and Recovery Act (RCRA), and making false statements. According to the indictment, employees were exposed to hazardous gases when hazardous materials were transported with false documents, without proper identification, and without appropriate employee protection. The exposure resulted in the deaths of two company truck drivers in 2008 and 2009 which were attributable to exposure to hydrogen sulfide, a poisonous gas under the HMTUSA.

### [Louisiana Man to Serve Prison Time for Illegal Alligator Hunting](#)

A Louisiana judge sentenced Gregory K. Dupont, owner of Louisiana Hunter, Inc., to six months in prison followed by four months in a half-way house and two years of supervised release for illegally hunting American alligators in violation of the Lacey Act, the Endangered Species Act, and Louisiana state law. Dupont provided outfitting and hunting guide services in contravention Louisiana's alligator management program which requires tagging of alligators and prohibits hunting except in designated areas.

## [Agency News](#)

### [Air Dispersion Modeling for Sulfur Dioxide Not Required for June 2013 SIP Submittals](#)

In light of the fact that EPA has not yet issued guidance for the 1-hour primary National Ambient Air Quality Standard (NAAQS) for sulfur dioxide and concerns expressed in response to the draft guidance published in 2011, EPA will no longer require the June 2012 State Implementation Plan (SIP) submittals to include modeling of the 1-hour sulfur dioxide NAAQS. EPA intends to conduct stakeholder outreach to identify workable approaches for determining NAAQS attainment for sulfur dioxide and other implementation issues.

### [Ohio Agency Reports Potential Link Between Earthquakes and Fracking](#)

In March, the Ohio Department of Environmental Resources issued a report suggesting that high-pressure fluid injected underground as part of hydraulic fracturing activities may have been related to a series of earthquakes in Youngstown, Ohio in late 2011. According to the agency, series of eleven earthquakes were all recorded within one mile of the well and occurred following regulatory approval to increase the pressure of injections at the well.

### [EPA Awards Nearly \\$70 Million in Brownfields Grants](#)

In July, EPA announced \$69.3 million in grants funded the EPA's Brownfields Assessment, Revolving Loan Fund, and Cleanup (ARC) grants and Revolving Loan Supplemental grants for clean up of abandoned and contaminated properties. The grants were awarded to communities and tribes in 39 states.

### [Endangered Species Act Protection Sought for Alabama Species](#)

On July 11, the Center for Biological Diversity filed the largest ever petition for Endangered Species Act protection for reptiles and amphibians. The petition targets 53 species in 45 states including 5 species known to occur in Alabama: the alligator snapping turtle, the green salamander, the Southern hog-nosed snake, the Florida pine snake, and the Carolina gopher frog. A copy of the petition is available at [http://www.biologicaldiversity.org/campaigns/amphibian\\_conservation/pdfs/Mega\\_herp\\_petition\\_7-9-2012.pdf](http://www.biologicaldiversity.org/campaigns/amphibian_conservation/pdfs/Mega_herp_petition_7-9-2012.pdf).

### [Recent Court Rulings](#)

#### [Municipal Ban on Fracking Upheld in New York](#)

In *Anschutz Exploration Corp. v. Town of Dryden*, No. 2011-0902, 2012 WL 556172 (N.Y. Sup. Ct., Tompkins County Feb. 21, 2012), a New York court held that a town's amendment of its municipal zoning ordinance to prohibit hydraulic fracturing and related activities was valid. The court rejected the corporation's argument that the local law was preempted by the New York's Oil, Gas and Solution Mining Law holding that the ordinance was a land-use law, rather than a mining law.

#### [Narrowed Class May Pursue Radiation Claims in Ohio](#)

A federal judge in Ohio ruled has ruled that a lawsuit against Monsanto Research Corp. and EG&G Mound Applied Technologies, Inc. alleging that residents near the Mount Nuclear Weapons Facility in Miamisburg, Ohio were exposed to radiation could continue as a class action. The suit was filed in 1991. In 2008 the class was narrowed to include only individuals living within 5 miles of the plant who were exposed to non-radioactive emissions. The judge rejected defendant's argument to decertify the class holding that the class met the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. See *Strepp et al. v. Monsanto Research Corp. et al.*, No. 3:91-cv-468, 2012 WL 604328 (S.D. Ohio, W. Div. Feb. 24, 2012).

#### [Eleventh Circuit Limits CERCLA § 107 Right of Recovery](#)

In *Solutia Inc. et al v. McWane Inc. et al*, No. 10-15639, 2012 WL 695007 (11th Cir. March 6, 2012), the Eleventh Circuit held that a party subject to a consent decree may not assert a CERCLA § 107(a) cost recovery claim. The Court thereby joined the Eighth, Second, and Third Circuit Courts of Appeals in limiting recovery by a party subject to a consent decree to a contribution action under Section 113 "in order to ensure the continued vitality of the precise and limited right to contribution" under CERCLA. *Richard Davis, a Starnes Davis Florie LLP senior partner, has represented one of the defendants since inception of the case in 2003.*

#### [Fifth Circuit Affirms USACE Liability for Levee Failure](#)

In March, the Fifth Circuit Court of Appeals upheld a district court ruling holding the federal government liable for failures of certain levees in New Orleans during Hurricane Katrina. The Fifth Circuit held that neither the Flood Control Act of 1928 (33 U.S.C. § 702) nor the discretionary-function exception to the Federal Tort Claims Act (28 U.S.C. § 2680(a)) protected the federal government from suit. See *In re Katrina Canal Breaches Litigation*, Nos. 10-30249, 10-31054 and 11-30808, 2012 WL 678135 (5th Cir. Mar. 2, 2012).

## January - June 2012 ADEM Administrative Penalty Orders Issued

| ORDER NO    | PERSON / ENTITY  | DATE ISSUED | PENALTY      | PROGRAM                   |
|-------------|--|-------------|--------------|---------------------------|
| 12-052-CHW  | SUMMA Technology, Inc. dba AAR Precision Systems, Huntsville | 01/06/2012  | 01/06/2012   | Hazardous Waste           |
| 12-053-CWP  | City of Mobile   | 01/06/2012  | \$17,750.00  | Surface Water             |
| 12-054-HW   | U.S. Army Aviation Center of Excellence-Ft. Rucker           | 01/06/2012  | \$31,000.00  | Hazardous Waste           |
| 12-056-CWP  | Four Star Land Ventures, LLC (Legacy Springs)                | 01/06/2012  | \$25,000.00  | Surface Water             |
| 12-058-CUST | McPherson Companies, Inc.                                    | 01/09/2012  | \$2,500.00   | Underground Storage Tank  |
| 12-059-CWP  | McWane, Inc. (Greenwood Park Project)                        | 01/12/2012  | \$10,000.00  | Surface Water             |
| 12-060-SW   | Otis & Johnathan Guthrie                                     | 02/29/2012  | \$5,000.00   | Solid Waste               |
| 12-061-ST   | Phillips Truck & Scrap Tire Removal                          | 01/13/2012  | \$250,000.00 | Scrap Tire                |
| 12-062-CAP  | Nichols Aluminum, Inc.                                       | 01/19/2012  | \$10,000.00  | Air Program               |
| 12-063-CAP  | Huntsman Advanced  | 01/26/2012  | \$25,000.00  | Air Program               |
| 12-065-CWP  | Oakley Excavating, Inc. (Crosspoint Estates-Tract 1)         | 02/06/2012  | \$15,000.00  | Surface Water             |
| 12-066-AP   | Ken Scroggin dba Eager Beavers Tree Service, LLC             | 02/28/2012  | \$5,000.00   | Air Program               |
| 12-067-CSW  | City of Selma (C/D Landfill)                                 | 02/09/2012  | \$7,500.00   | Solid Waste               |
| 12-068-UST  | Stuckey's of Hayden, Inc. (Stuckey's BP of Hayden)           | 02/13/2012  | \$4,000.00   | Underground Storage Tanks |
| 12-069-UST  | Stuckey's of Falkville, Inc. (Stuckey's BP Falkville)        | 02/14/2012  | \$4,000.00   | Underground Storage Tanks |
| 12-070-SW   | Willie Grove   | 02/21/2012  | \$12,500.00  | Solid Waste               |
| 12-072-CAP  | Florida Rock & Tank Lines, Inc.                              | 02/21/2012  | \$32,000.00  | Air Program               |
| 12-073-UST  | Farzaneh, Inc. (Circle C No. 6)                              | 02/21/2012  | \$2,000.00   | Underground Storage Tanks |
| 12-074-UST  | Farzaneh, Inc. (Busy Bee No. 3)                              | 02/21/2012  | \$2,000.00   | Underground Storage Tanks |
| 12-075-UST  | Copeland Oil & Gas Company (Starvin Marvin No. 2)            | 02/21/2012  | \$5,000.00   | Underground Storage Tanks |
| 12-078-CHW  | Dunbarton Corporation, Rediframe Division                    | 02/28/2012  | \$10,000.00  | Hazardous Waste           |
| 12-079-CAP  | City of Albertville  | 02/29/2012  | \$6,000.00   | Air Program               |
| 12-080-CAP  | 3 M Company  | 02/29/2012  | \$6,000.00   | Air Program               |
| 12-083-CWP  | Burroughs Construction Company (Whispering Meadows Site)     | 03/06/2012  | \$5,000.00   | Surface Water             |
| 12-084-CWP  | North Alabama Sand & Gravel                                  | 03/09/2012  | \$40,000.00  | Surface Water             |

| ORDER NO    | PERSON / ENTITY                                       | DATE ISSUED | PENALTY     | PROGRAM                   |
|-------------|---|-------------|-------------|---------------------------|
| 12-085-CUST | Wilburn Oil Company<br>(County Line Package Store)    | 03/12/2012  | \$5,000.00  | Underground Storage Tanks |
| 12-086-UST  | Merritt & Walding Properties, LLP (Merri Mart #20)    | 03/13/2012  | \$5,000.00  | Underground Storage Tanks |
| 12-087-CUST | Riverview Quickstop<br>(Greg Crutchfield)             | 03/14/2012  | \$2,750.00  | Underground Storage Tanks |
| 12-088-CUST | John L. Burkhead, Inc.                                | 03/14/2012  | \$2,750.00  | Underground Storage Tanks |
| 12-089-CHW  | Berg Spiral Pipe Corporation                          | 03/15/2012  | \$11,500.00 | Hazardous Waste           |
| 12-090-CAP  | MeadWestvaco Corporation                              | 03/20/2012  | \$16,000.00 | Air Program               |
| 12-093-CWP  | City of Oxford WW&SB<br>(Oxford Tull C. Allen WWTP)   | 03/21/2012  | \$20,450.00 | Surface Water             |
| 12-094-CUST | Sarathi Real Estate, Inc.<br>(Stuckey's Pecan Shoppe) | 03/28/2012  | \$1,000.00  | Underground Storage Tanks |
| 12-095-CAP  | Kenan Transport Company                               | 04/10/2012  | \$3,000.00  | Air Program               |
| 12-096-CWP  | Jamestown Villas, LLC<br>(Jamestown Villas)           | 04/11/2012  | \$21,000.00 | Surface Water             |
| 12-097-CWP  | Racquet Club Investments (BLG Site)                   | 04/11/2012  | \$21,000.00 | Surface Water             |
| 12-099-CAP  | ThyssenKrupp Stainless USA, LLC                       | 04/13/2012  | \$20,000.00 | Air Program               |
| 12-100-CAP  | Penn Tank Lines, Inc.<br>(Penn Tank Trailer No. 106)  | 04/18/2012  | \$6,500.00  | Air Program               |
| 12-101-CWP  | Campus Crest Development, LLC (The Grove at Auburn)   | 04/26/2012  | \$13,100.00 | Surface Water             |
| 12-103-CWP  | Rice-Pugh, LLC (Forest Glen)                          | 04/27/2012  | \$15,000.00 | Surface Water             |
| 12-105-CSW  | City of Gadsden (C/D Landfill)                        | 05/01/2012  | \$7,000.00  | Solid Waste               |
| 12-106-CAP  | Gulf Coast Agricultural & Seafood Cooperative, Inc.   | 05/01/2012  | \$2,000.00  | Air Program               |
| 12-108-CUST | Parth & Surya Patel (Pit Stop)                        | 05/02/2012  | \$3,000.00  | Underground Storage Tanks |
| 12-109-CUST | Sun State Oil Company, Inc.                           | 05/02/2012  | \$1,500.00  | Underground Storage Tanks |

| ORDER NO    | PERSON / ENTITY   | DATE ISSUED | PENALTY      | PROGRAM                   |
|-------------|---|-------------|--------------|---------------------------|
| 12-110-CUST | Kenny Ali (TJ's #2)   | 05/02/2012  | \$2,750.00   | Underground Storage Tanks |
| 12-111-CSW  | Unison Environmental Services, LLC  | 05/07/2012  | \$24,000.00  | Solid Waste               |
| 12-112-CAP  | ThyssenKrupp Steel USA, LLC   | 05/07/2012  | \$75,000.00  | Air Program               |
| 12-114-CWP  | Adams Homes, LLC (Multiple Sites)   | 05/11/2012  | \$35,000.00  | Surface Water             |
| 12-115-CAP  | Clark Oil Company (Company Trailer No. 20)                                      | 05/14/2012  | \$9,000.00   | Air Program               |
| 12-116-CWP  | B.H. Craig Construction Company, Inc. (Muscle Shoals WTP)                       | 05/22/2012  | \$4,100.00   | Surface Water             |
| 12-117-HW   | Plains Pipeline, L.P.   | 05/29/2012  | \$19,300.00  | Hazardous Waste           |
| 12-118-CWP  | Pierce Properties, LLC (Pierce Materials Pit)                                   | 05/29/2012  | \$9,750.00   | Surface Water             |
| 12-119-CWP  | Steve Corbett (Corbett Property-Waugh)  | 06/01/2012  | \$23,500.00  | Surface Water             |
| 12-121-CWP  | Martin Rocha (Martin Rocha Site)  | 06/01/2012  | \$15,000.00  | Surface Water             |
| 12-122-CWP  | Alabama Department of Transportation (Anniston Bypass)                          | 06/05/2012  | \$26,200.00  | Surface Water             |
| 12-123-CAP  | Florida Rock & Tank Lines, Inc. (Co. Trailer Nos. TE-0065, -0075, -5314, -5318) | 06/06/2012  | \$3,000.00   | Air Program               |
| 12-124-CHW  | Louisiana Pacific Corporation   | 06/11/2012  | \$5,500.00   | Hazardous Waste Program   |
| 12-125-CUST | Vulcan Oil Company, Inc. (TJ's #2)  | 06/08/2012  | \$1,375.00   | Underground Storage Tanks |
| 12-127-CHW  | Alabama State Port Authority  | 06/14/2012  | \$8,400.00   | Hazardous Waste Program   |
| 12-128-CWP  | Gulf Coast Asphalt Company, LLC (Blakely Island)                                | 06/15/2012  | \$101,500.00 | Surface Water             |
| 12-129-CWP  | Pilgrims Pride Corporation  | 06/15/2012  | \$53,800.00  | Surface Water             |
| 12-130-CAP  | BP North America, Inc.  | 06/15/2012  | \$7,500.00   | Air Program               |
| 12-133-CWP  | Town of Autaugaville (Autaugaville WWTP)  | 06/28/2012  | \$2,400.00   | Surface Water             |

## ATTORNEY PROFILES

**Richard E. Davis** is a senior partner with Starnes Davis Florie LLP. He represents clients in federal and state courts in Alabama as well as in matters involving federal and state regulatory agencies. Richard's environmental practice includes Clean Water Act, Clean Air Act, and CERCLA litigation; natural resource and property damage claims; land use and water use issues; and the defense of corporations and individuals accused of environmental crimes as well as regulatory enforcement and compliance matters. Richard also defends personal injury actions based on alleged chemical exposure. In addition, he is experienced in the prosecution and defense of claims in biotechnology and pharmaceutical litigation, in business litigation, and in insurance related disputes. Richard is a Fellow in the Litigation Counsel of America Trial Lawyer Honorary, was listed in the 2008 - 2012 editions of *Alabama Super Lawyers*<sup>®</sup> magazine for Environmental Litigation, was selected for inclusion in the 2011 and 2012 editions of *Best Lawyers in America*<sup>®</sup>—in 2011 for both Environmental Law and Natural Resources Law and in 2012 for both Litigation-Environmental and Natural Resources Law, was included by ALM (publisher of *The American Lawyer*, *Corporate Counsel*, and law.com) as a Top Rated-AV Preeminent Lawyer in Mass Tort Litigation, was selected by peer review as one of Birmingham Magazine's Top Attorneys in Environmental Law in 2012, and was Chair of the Alabama State Bar Environmental Law Section for 2010-2011.

**J. Scott Dickens** is a partner with Starnes Davis Florie LLP. Scott's practice is primarily devoted to environmental and construction litigation. He has represented clients in all State and Federal Courts in Alabama, in arbitration proceedings before the American Arbitration Association and Alabama Building Commission, and in the United States Court of Federal Claims. Scott's practice includes CERCLA and RCRA litigation; architect and engineer liability claims, particularly relating to environmental issues; and construction related matters. He also frequently speaks at environmental and construction seminars. Scott is a 1996 graduate of Cumberland School of Law where he was a member of the *Cumberland Law Review*.

**Amber M. Whillock** is an associate with Starnes Davis Florie LLP. Amber's practice is primarily devoted to environmental litigation and regulatory compliance and includes defense of Clean Water Act and Clean Air Act claims; litigation of Comprehensive Environmental Response, Compensation, and Liability Act Contribution and cost recovery claims; defense of common law property damage claims; and defense of personal injury claims based on exposure to chemicals and other pollutants. While attending Cumberland School of Law, Amber was the Executive Editor of the *Cumberland Law Review*, a Thomley Scholarship Recipient, a George M. Stewart Banking Award Recipient and the recipient of numerous Scholar of Merit Awards.



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