May 8, 2009
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Client Alert Newsletter May 2009

In a decision issued in Scotchtown Holdings LLC v. Town of Goshen on January 5, 2009, the U.S. District Court for the Southern District of New York placed limits on the types of claims that are actionable under the citizen suit provisions of the Resource Conservation and Recovery Act ("RCRA"). One of the key features of RCRA is that it allows private parties under Section 7002(a)(1)(B) to bring suit against those that have contributed or are contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present "an imminent and substantial endangerment to health or the environment." The concept of what qualifies as an imminent and substantial endangerment to health or the environment has proved to be quite elastic. Despite the import of the words used by Congress in drafting RCRA, the courts have seemingly been quite willing to apply the label to a broad spectrum of environmental conditions and situations. However, in Scotchtown Holdings, the Court took the step of dismissing the case on the basis that no imminent and substantial endangerment existed in light of the facts that had been alleged.

In Scotchtown Holdings, a private property owner brought a citizens suit under Section 7002(a)(1)(B) of RCRA against the local municipality and the superintendent of highways for the municipality alleging that they had used road salt (sodium chloride) to treat snow and ice which in turn accumulated in snow banks along the sides of the roads and ultimately leached into groundwater beneath the plaintiff’s property. The salt intrusion into the groundwater allegedly caused the groundwater to be unsafe for human consumption, thereby preventing the plaintiff from proceeding with plans to develop its property for residential purposes. The Court noted that under the citizens suit provisions of RCRA, an imminent threat did not mean that the threat had to be immediate. Instead, the threat simply had to be currently present even if its impact might not be felt until later. In parsing the allegations advanced by the plaintiff, the Court concluded that although groundwater might be impacted by road salt on the plaintiff’s property, the plaintiff failed to show that such conditions qualified as an imminent and substantial endangerment because no one was currently using the groundwater and the impacts to groundwater were sufficient that, according to the plaintiff, they would preclude development of the property thereby eliminating the potential for future consumption of the contaminated groundwater. The Court acknowledged that the property owner found itself in a "Catch-22" situation but determined that a RCRA citizens suit was not the appropriate vehicle to address the property owner’s grievances.