RCRA/Sovereign Immunity: Federal Appellate Court Addresses Injunctive Relief Claim Against California Agency Officials



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05/06/2026

The United States Court of Appeals, 9th Circuit ("Appellate Court") addressed in an April 27th Opinion an issue arising out of a Resource Conservation and Recovery Act ("RCRA") related lawsuit against two California agency officials. *See FORWARD, INC. v. JEFF MACOMBER; ANNA M. LASSO*, 2026 WL 1130576.

The issue addressed was whether the two California officials were barred from being sued due to the 11th Amendment.

Forward, Inc. ("Forward") owns a landfill in Stockton, California that was the subject of cleanup orders that required groundwater remediation. A number of state facilities border the landfill.

Forward suspected in undertaking the remediation that the state facilities were leaching hazardous waste into the groundwater which interfered with its remediation efforts. Forward alleged that data obtained on or near the state facilities suggested that they were generating hazardous waste. Further, it alleged that the contamination was due to the prior and ongoing activities at the state facilities.

Forward filed a judicial action in the United States District Court alleging violations of RCRA. Injunctive and declaratory relief was sought from two California state officials:

- Jeff Macomber, California Department of Corrections and Rehabilitation Secretary; and,
- Ana M. Lasso, California Department of General Services Director.

Forward alleged that by virtue of their offices that they had control over the generation, handling, storage, and disposal of solid waste, including hazardous waste and hazardous substances, at the state facilities.

The United States District Court dismissed the suit for lack of jurisdiction under 11th Amendment sovereign immunity. Their alleged control over hazardous waste at the state facilities was deemed insufficient for *Ex parte Young* purposes.

The District Court held that there was a failure to demonstrate how the two state officials, with general oversight of the California agencies that are not tasked with handling solid or hazardous waste, have any sort of responsibility or connection to waste management at the facilities.

The Appellate Court notes that an exception to the 11th Amendment provides that plaintiffs can sue "state officers in their official capacities for prospective declaratory or injunctive relief ... for their alleged violations of federal law. However, they must have:

… some connection with the enforcement of the act, or else it is merely making him a party as a representative of the state, and thereby attempting to make the state a party.

The Appellate Court held that the connection must be fairly direct:

… a generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit.

Forward's complaint is stated to have failed to identify any direct actions by the state officials that result in the alleged federal law violations. Further, it discounted descriptions of each of the two state officials' responsibilities in the state statutes were tenuous.

Therefore, citing *Ex parte Young*, the Appellate Court upheld the District Court's dismissal of the RCRA citizen suit.

A copy of the Opinion can be found here.