

(ORDER LIST: 556 U.S.)

MONDAY, MAY 4, 2009

ORDER IN PENDING CASES

07-984 ) COEUR ALASKA, INC. V. SOUTHEAST ALASKA CONSERVATION  
)  
07-990 ) ALASKA V. SOUTHEAST ALASKA CONSERVATION

The parties are directed to file supplemental briefs addressing the following questions: (1) If the discharge of the slurry into the lake would violate Section 301 or Section 306 of the Clean Water Act, would that future violation authorize a court to set aside the permits issued by the United States Army Corps of Engineers, and the Record of Decision issued by the United States Forest Service, as “not in accordance with law,” 5 U.S.C. §706(2)(A)? See *Pension Benefit Guaranty Corp. v. LTV Corp.*, 496 U.S. 633, 646 (1990). (2) If a discharge comes within the scope of the Environmental Protection Agency’s effluent limitations and satisfies the definition of fill material, may the discharger obtain permits under both Section 402 and Section 404 of the Clean Water Act? Must the discharger do so? The briefs, not to exceed 6,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, May 15, 2009. *Amicus* briefs, not to exceed 4,500 words, may be filed with the Clerk and served upon counsel to the parties on or before 2 p.m., Friday, May 15, 2009. Reply briefs, not to exceed 3,000 words, may be filed with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, May 22, 2009.