

## Jonathan Brightbill Discusses the Waters of the United States Rule with *Hart Energy*

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Winston & Strawn Partner Jonathan Brightbill discussed the Clean Water Act and the uncertainty surrounding what waters are protected under the law with *Hart Energy*. The Clean Water Act prohibits the discharge of pollutants into “navigable waters,” but over time the definition has broadened to cover “virtually any parcel of land containing a channel or conduit ... through which rainwater or drainage may occasionally or intermittently flow,” according to an opinion by Justice Antonin Scalia in *Rapanos v. United States*.

“You have these Supreme Court decisions that said, ‘well, no, the statute doesn’t allow the regulation to be that broad,’” Jonathan said. “And you had this unusual circumstance where the regulation was out of sync with the Supreme Court precedent and the statute.”

Hart Energy discusses the ruling in *Sackett v. Environmental Protection Agency*, and its implications for energy developers.

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