

It's been a very rough U.S. Supreme Court Term for the Ninth Circuit.

Four of the five major environmental cases on the Supreme Court's docket this year emanate from the Ninth Circuit. With the justices' issuance of their major CERCLA decision in *Burlington Northern* this week, four of those environmental cases have now been resolved, including three from the Ninth Circuit. (The other two decided Ninth Circuit cases are *Winter v. NRDC* [the so-called "Navy sonar" case] and *Summers v. Earth Island Institute* [a standing decision arising from a federal forestry dispute].)

How have the Ninth Circuit rulings in these cases fared upon review by the justices? Not at all well. In all three instances, the Supreme Court reversed the rulings of the Ninth Circuit. In each, it replaced an "environmentalist" result with one favoring development or national security interests.

But environmentalists shouldn't take these developments too personally. The Ninth Circuit's overall track record before the Supreme Court this Term is equally underwhelming. Counting *Burlington*, the Supremes have now decided seven total cases from the Ninth Circuit, and reversed in every one.

The Ninth Circuit's ideological dissonance vis-a-vis the Supreme Court has been well-chronicled in recent years. But the 2008-09 Term is shaping up as one of the worst in history, at least when it comes to preserving Ninth Circuit precedents.