

**FOR IMMEDIATE RELEASE**

**March 22, 1999**

**SUPREME COURT URGED TO REVIEW  
ENDANGERED SPECIES CASE**  
*(County Council of Volusia County v. Loggerhead Turtle, et al.)*

The Washington Legal Foundation (WLF) last week urged the U.S. Supreme Court to review a federal appeals court decision that a county government can be sued under the Endangered Species Act (ESA) solely for not restricting beachfront lighting severely enough to prevent harm to federally protected sea turtles.

In a brief filed with the Court, WLF argued that the court of appeals read the ESA in a way that conflicts with the Court's decisions under the Tenth Amendment. In those decisions the Court has repeatedly said that Congress may not order states to make particular laws or to administer a federal program. The court of appeals decision makes a county liable if its beachfront lighting regulations do not totally prevent harm to any protected sea turtle within its boundaries. In effect, this compels the county to make a particular law and to enforce the ESA in place of the U.S. Fish and Wildlife Service.

WLF filed its brief on behalf of itself and the Allied Educational Foundation.

"A federal court has no authority to force a county to choose between making a particular law or risking liability," said WLF's Senior Counsel for Litigation Affairs, Shawn Gunnarson. "The Endangered Species Act cannot be allowed to illicitly expand federal power at the expense of state and local government."

WLF's brief was drafted with the *pro bono* assistance of Gaylen Schuler of the law firm of Perkins Coie LLC.

The Washington Legal Foundation is a nonprofit public interest law and policy center with supporters nationwide. It devotes a significant portion of its resources to defending and promoting the principles of free enterprise and individual rights.

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