

JANUARY, 2020

# ENVIRONMENT NEWSLETTER

*In this bulletin, we highlight relevant decisions on environmental matters recently entered by the main Courts of Appeals in the Country*

## *in this edition*

Municipality  
condemned for not  
preventing PPA  
degradation

Decision reaffirms  
that administrative  
responsibility is  
subjective

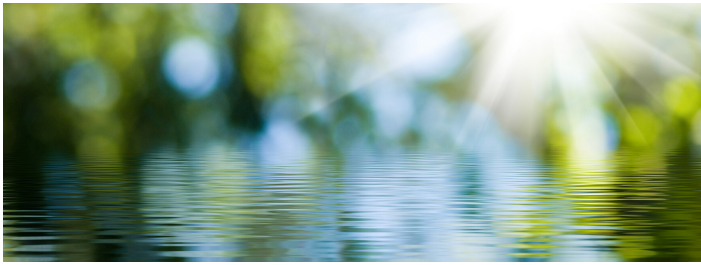
Court guarantees  
compliance with legal  
deadline for issuing  
environmental  
authorization



## **Superior Court of Justice (STJ) restated that there is no statute of limitations for repairing environmental damage**

The STJ upheld the settled opinion on imprescriptibility of actions that deal with protection of the environment. The last decision, entered in the context of a civil action seeking responsibility of the municipality of Caraguatatuba SP and the operator of a sanitary landfill, in which the irregular disposal of urban solid waste occurred for more than three decades, considered the existence of continued damage, and therefore, the statute of limitation has not been applied.

*(AREsp No. 1541506 SP, tried on 12/19/2019)*

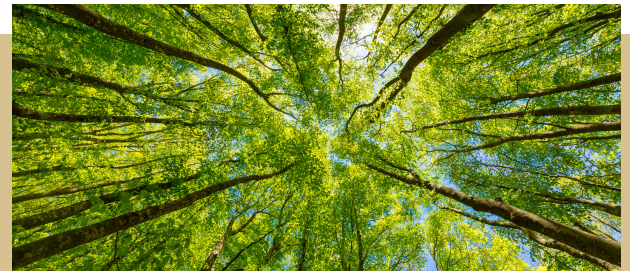


## **São Paulo Court of Appeals entered a judgment against a municipality to jointly recover a Permanent Preservation Area (PPA) degraded by irregular land subdivision**

São Paulo Court of Appeals upheld the judgment that ordered correction of violations of a land subdivision, as well as restoration of environmental damage caused to a PPA. The civil action was filed by the State Prosecutors' Office against the municipality of Taquarituba and against the occupants of the land subdivision, having the municipality been jointly convicted for "having been negligent in relation to the invasion of environmental protection areas".

*(Civil Appeal No. 0001934-54.2015.8.26.0620; tried on 12/05/2019)*

## **São Paulo Court of Appeals recognizes that the characterization of administrative liability requires the existence of "fault"**



São Paulo Court of Appeals upheld a judgment that declared a notice of violation void and null because the characterization of the offender's fault was absent. The Court found that the administrative liability is fault-based (i.e. it depends on confirmation of fault), unlike the environmental civil liability, defined by law as absolute liability. Thus, it was recognized that in cases of administrative penalties, in order for the notice of violation to be valid, the government agency must prove the offender's negligence, recklessness or malpractice.

*(Civil Appeal No. 1011425-76.2018.8.26.0066; tried on 11/07/2019)*



## **Minas Gerais Court of Appeals grants authorization to capture water resources, which has not been reviewed by the environmental agency within the legal time**

The legislation of Minas Gerais State provides that the environmental agency (SUPRAM) must decide on granting authorization for water resource capture within 90 days. Based on this provision, the Minas Gerais Court of Appeals upheld the judgment that held as valid a writ of mandamus against the environmental agency's delay.

*((Mandatory Review No. 1.0000.18.025878-2/002; tried on 12/17/2019)*