

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATURAL RESOURCES DEFENSE COUNCIL,
CLEAN AIR COUNCIL, CLEAN WISCONSIN,
and CONSERVATION LAW FOUNDATION,

Petitioners,

v.

No. 17-1157

E. SCOTT PRUITT, Administrator, U.S.
Environmental Protection Agency, and
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondents.

**STIPULATION OF VOLUNTARY DISMISSAL PURSUANT TO
FEDERAL RULE OF APPELLATE PROCEDURE 42(b)**

Petitioners Natural Resources Defense Council, Clean Air Council, Clean Wisconsin, and Conservation Law Foundation (collectively, Petitioners), and Respondents E. Scott Pruitt and the United States Environmental Protection Agency (together, EPA) agree to dismiss this case pursuant to Federal Rule of Appellate Procedure 42(b). Petitioners and EPA inform the Court as follows:

This case involves a petition for review of the EPA final action published on May 31, 2017, and titled “Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills,” 82 Fed. Reg. 24,878 (May 31, 2017) (hereinafter “Stay Decision”).

In EPA's response brief dated January 22, 2018, ECF No. 1714147, the Agency made the following representations:

1) "The Stay Decision only affects deadlines in the 2016 regulations that would have otherwise applied during the 90 days in which the stay was in effect," that is, from May 31, 2017, until August 29, 2017. EPA Br. at 2.

2) With regard to new landfills: "EPA is not aware of any new landfills affected by the Stay Decision" (that is, landfills with "deadlines [that] fell within the period of the stay") and "Petitioners have not pointed to any." EPA Br. at 37-42.

3) With regard to existing landfills: "the Stay Decision by its express terms began on May 31, not May 30, and therefore did not alter the May 30" deadline for states to submit implementation plans for existing landfills "and EPA did not purport to retroactively extend that date." EPA Br. at 35. Additionally, "the Stay Decision did not affect any subsequent deadlines for existing landfills." EPA Br. at 36.

4) With regard to EPA's obligations: "EPA had four months, until September 31, 2017, to approve or disapprove any state plans that were timely submitted by May 30, and six months, until November 30, 2017, to promulgate a federal plan for states that did not timely submit state plans." EPA Br. at 36. These deadlines "have come and gone, and the Stay Decision had no effect on them." *Id.* "EPA has neither approved nor disapproved the state plans that were timely submitted, nor promulgated any federal plans." EPA Br. at 37.

In light of these representations, Petitioners have elected to voluntarily dismiss this petition for review. Petitioners and EPA hereby agree to the voluntary dismissal of the above-captioned petition for review pursuant to Federal Rule of Appellate Procedure 42(b). Each party shall bear its own costs.

Dated: January 31, 2018

Respectfully submitted,

/s/ Melissa J. Lynch

David D. Doniger

Melissa J. Lynch

Natural Resources Defense Council

1152 15th Street NW, Suite 300

Washington, DC 20005

Telephone: (202) 289-2403

ddoniger@nrdc.org

llynch@nrdc.org

Counsel for Natural Resources

Defense Council

/s/ Ann Brewster Weeks

Ann Brewster Weeks

James P. Duffy

Clean Air Task Force

114 State Street, 6th Floor

Boston, MA 02109

Telephone: (617) 624-0234

aweeks@catf.us

jduffy@catf.us

*Counsel for Clean Air Council, Clean Wisconsin,
and Conservation Law Foundation*

JEFFREY H. WOOD

Acting Assistant Attorney General

Environment & Natural Resources Division

Of Counsel:

Elliott Zenick

Karen Palmer

United States Environmental

Protection Agency

Office of the General Counsel

/s/ Daniel R. Dertke

DANIEL R. DERTKE

Senior Attorney

Environmental Defense Section

United States Department of Justice

P.O. Box 7611

Washington, D.C. 20044

Tel.: 202.514.0994

Fax: 202.514.8865

daniel.dertke@usdoj.gov

Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2018, I have served the foregoing Stipulation of Voluntary Dismissal on all registered counsel through the court's electronic filing (ECF) system.

/s/ Melissa J. Lynch