

**ORAL ARGUMENT NOT YET SCHEDULED**

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

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CLEAN AIR COUNCIL, EARTHWORKS, )  
ENVIRONMENTAL DEFENSE FUND, )  
ENVIRONMENTAL INTEGRITY )  
PROJECT, NATURAL RESOURCES )  
DEFENSE COUNCIL, and SIERRA )  
CLUB, )  
)  
)  
*Petitioners,* ) No. 17-1145  
)  
v. )  
)  
SCOTT PRUITT, Administrator, )  
ENVIRONMENTAL PROTECTION )  
AGENCY, and UNITED STATES )  
ENVIRONMENTAL PROTECTION )  
AGENCY, )  
)  
*Respondents.* )  

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**PETITIONERS’ OPPOSITION TO TEXAS AND NORTH DAKOTA’S  
INTENT TO FILE AN AMICUS BRIEF**

Petitioners respectfully oppose the States of Texas and North Dakota’s intent to file an amicus brief in support of Respondents’ opposition to our motion for an emergency stay or summary vacatur. Texas and North Dakota claim to file “as of right” under Federal Rule of Appellate Procedure 29, ECF 1680561, but—as

Petitioners informed Texas and North Dakota’s counsel—“[n]either the Federal nor D.C. Circuit Rules provide for amici to file or respond to motions.” Order, *State of Texas v. EPA*, No. 10-1425 (D.C. Cir. Jan. 12, 2011) (quoting *U.S. v. Michigan*, 940 F.2d 143, 164-66 (6th Cir. 1991)) (Attachment).

In addition, Texas and North Dakota informed this Court of their intent to file an amicus brief *after* the briefing on Petitioners’ emergency motion had concluded. Their proposed amicus brief would therefore delay this Court’s expedited briefing schedule on Petitioners’ emergency motion.

For the foregoing reasons, Petitioners respectfully request that the Court deny leave to Texas and North Dakota to file an amicus brief in support of Respondents’ response to Petitioners’ emergency motion.

DATED: June 21, 2017

Respectfully submitted,

/s/ Susannah L. Weaver

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**ATTACHMENT**

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1425

September Term 2010

EPA-75FR82430

Filed On: January 12, 2011

State of Texas, et al.,  
Petitioners

v.

Environmental Protection Agency,  
Respondent

**BEFORE:** Ginsburg, Rogers, and Griffith, Circuit Judges

## ORDER

Upon consideration of the emergency motion for stay, the responses thereto, and the reply; and the motion for leave to participate as amici curiae and to file a response to emergency motion for stay and the lodged response, the opposition thereto, and the notice of consent to motion, it is

**ORDERED** that the motion for leave to participate as amici curiae be granted. It is

**FURTHER ORDERED** that amici's motion for leave to file a response be denied. Neither the Federal nor the D.C. Circuit Rules provide for amici to file or respond to motions. Cf. United States v. Michigan, 940 F.2d 143, 164-66 (6th Cir. 1991) (observing that courts have recognized the "very limited" adversarial role of amici curiae, but have "consistently precluded" amici from filing pleadings). It is

**FURTHER ORDERED**, on the court's own motion, that the administrative stay entered on December 30, 2010, be dissolved. It is

**FURTHER ORDERED** that the motion for stay be denied. Petitioners have not satisfied the stringent standards required for a stay pending court review. See Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); D.C. Circuit Handbook of Practice and Internal Procedures 32 (2010).

Per Curiam

## CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of June, 2017, I have served the foregoing Opposition to Texas and North Dakota's Intent to File an Amicus Brief on all parties through the Court's electronic filing (ECF) system.

DATED: June 21, 2017

/s/ Susannah L. Weaver  
Susannah L. Weaver