Message

From: Thomas Cmar [tcmar@earthjustice.org]
Sent: 10/30/2018 8:51:08 PM
To: Cook, Steven [cook.steven@epa.gov]; Johnson, Barnes [Johnson.Barnes@epa.gov]; Devlin, Betsy [Devlin.Betsy@epa.gov]
CC: Celeste, Laurel [celeste.laurel@epa.gov]; perry.rosen@usdoj.gov; Lisa Evans [levans@earthjustice.org]; Jennifer Cassel [jcassel@earthjustice.org]; Henry Weaver [hweaver@earthjustice.org]
Subject: FW: Petition for Stay Pending Judicial Review [prompt response requested]
Attachments: Waterkeeper et al Rule 18 Letter 103018.pdf

Dear Mr. Cook, Mr. Johnson, and Ms. Devlin,

I am forwarding as a courtesy a copy of the attached petition for a stay of the effectiveness of the final action taken by EPA at 83 Fed. Reg. 36,435 (July 30, 2018) and entitled "Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One, Part One)."

Please do not hesitate to contact me or the other signatories to the letter with any questions. Please note that I have also sent a courtesy copy to Laurel Celeste in EPA OGC and Perry Rosen at DOJ (and am CCing both of them on this email as well).

Best,

Thom Cmar

From: Thomas Cmar
Sent: Tuesday, October 30, 2018 3:34 PM
To: 'wheeler.andrew@epa.gov' <wheeler.andrew@epa.gov>
Cc: Lisa Evans (levans@earthjustice.org) <levans@earthjustice.org>; Jennifer Cassel <jcassel@earthjustice.org>; Henry Weaver <hweaver@earthjustice.org>; Abel Russ (aruss@environmentalintegrity.org) <aruss@environmentalintegrity.org>; Lisa Widawsky Hallowell (lhallowell@environmentalintegrity.org) <lhallowell@environmentalintegrity.org>; 'bridget.lee@sierraclub.org' <bridget.lee@sierraclub.org>; Matt Gerhart <matt.gerhart@sierraclub.org>
Subject: Petition for Stay Pending Judicial Review [prompt response requested]

Dear Acting Administrator Wheeler:

The attached is a petition to stay, pending judicial review, the effectiveness of the final action taken by EPA at 83 Fed. Reg. 36,435 (July 30, 2018) and entitled "Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One, Part One)" ("Phase I Rule").

The parties submitting this petition are Clean Water Action, 1444 I Street NW, Suite 400, Washington, DC 20005; HEAL Utah, 824 S 400 W, Suite B111, Salt Lake City, UT 84101; Hoosier Environmental Council, 3951 N. Meridian, Suite 100, Indianapolis, IN 46208; Prairie Rivers Network, 1605 South State Street, Suite 1, Champaign, IL 61820; Sierra Club, 2101 Webster St, Suite 1300, Oakland, CA 94612; and Waterkeeper Alliance, 180 Maiden Lane, Suite 603, New York, NY 10038 (collectively, "Petitioners").

On October 22, 2018, Petitioners filed a petition for review of the Phase I Rule in the U.S. Court of Appeals for the D.C. Circuit, docketed as Case No. 18-1289. For the reasons set forth in the attached letter, Petitioners specifically request that you stay the effectiveness of the Phase I Rule with respect to the provisions that extend closure deadlines for

unlined impoundments that cause contamination exceeding a groundwater protection standard, 40 C.F.R. § 257.101(a)(1), and for impoundments that violate the location restriction concerning placement of coal ash above the uppermost aquifer, *id.* § 257.101(b)(1).

To the extent EPA is willing and able to consider such a request, and to the extent it may be deemed necessary for any reason for Petitioners to submit such a request to EPA before seeking a stay pending judicial review from the D.C. Circuit, we request that the agency act immediately on this request. Please inform the undersigned counsel by 5:00 p.m., on Friday, November 16, 2018, whether the agency will grant our request for a stay.

Sincerely,

_____

Thomas Cmar
Earthjustice
1101 Lake Street, Suite 405B
Oak Park, IL 60301
Ex. 6 PP / Ex. 7(C)

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

*please consider the environment before printing