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# CASE LAW UPDATE

*KAMI MCFARLAND  
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37<sup>TH</sup> ANNUAL TEXAS ENVIRONMENTAL  
SUPERCONFERENCE*

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# CLEAN AIR ACT

- *Texas v. United States Env't Prot. Agency*, No. 17-60088, 2025 WL 1417718 (5th Cir. May 16, 2025)
  - *Kentucky v. EPA*, 123 F.4th 447 (2024).
  - *Texas v. United States Env't Prot. Agency*, 132 F.4th 808 (5th Cir. 2025)
  - *Oklahoma v. EPA*, 605 U.S. --- (2025)
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# 2010 SULFUR DIOXIDE NAAQS



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# ***TEXAS V. UNITED STATES ENV'T PROT. AGENCY***

*No. 17-60088, 2025 WL 1417718 (5th Cir. May 16, 2025)*

- 2010 Sulfur Dioxide NAAQS
- Rusk and Paloma County classified as “nonattainment”
- **Held:** EPA must designate a site “unclassifiable” when available information “does not reliably support a finding of attainment or nonattainment.”





# 2015 OZONE NAAQS

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## ***KENTUCKY V. EPA***

*123 F.4TH 447 (2024)*

- Kentucky SIP rejected – Noncompliant with CAA Good Neighbor Provision
- **Held:** EPA's unexplained divergence from its own guidance in issuing a final decision on KY SIP was “arbitrary and capricious”
  - *EPA disapproval remanded and vacated*

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# ***TEXAS V. UNITED STATES ENV'T PROT. AGENCY***

*132 F.4TH 808 (5TH CIR. 2025)*

- Texas, Louisiana and Mississippi SIPs rejected
  - Texas and Louisiana SIPs technically flawed --- Noncompliant with CAA Good Neighbor Provision
  - EPA not required to approve a SIP solely because it contains a “reasoned analysis”
- **Held:** EPA’s use of 2016-based modeling data in disapproving MS SIP was “arbitrary and capricious”
  - *EPA disapproval vacated and remanded*

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# ***OKLAHOMA V. EPA***

*605 U.S. --- (2025)*

- Oklahoma and Utah SIPs rejected
  - Removed from 10<sup>th</sup> Circuit to D.C. Circuit Court
  - One Federal Register notice = one action
- **Held:** Each SIP decision constitutes a separate action that is “locally or regionally applicable.” An action only has “national applicability” if “on its face, it has a binding effect throughout the country.”
  - *10<sup>th</sup> Circuit decision reversed*



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# CLEAN WATER ACT

- *City and County of San Francisco, CA v. EPA, 604 U.S. --- (2025)*
- *Save Our Springs Alliance v. TCEQ, 713 S.W.3d 308 (2025)*



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***CITY AND COUNTY OF SAN FRANCISCO, CA V. EPA***  
***604 U.S. --- (2025)***

- “End-result” requirements for National Pollutant Discharge Elimination System (“NPDES”) permits
- 9<sup>th</sup> Circuit upheld requirements – CWA authorizes EPA to impose “any” limitations
- Supreme Court reversed – CWA requires EPA impose “concrete measures”
- **Held:** §1311(b)(1)(C) does not authorize the EPA to impose “end-result” provisions in NPDES permits

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## ***SAVE OUR SPRINGS ALLIANCE V. TCEQ***

### ***713 S.W.3D 308 (2025)***

- Tier I and Tier II antidegradation standards
  - Permittee may not disturb existing water uses or degrade the water
- Water quality decreased but overall quality above permitted levels
  - Parameter-by-parameter vs whole water approach
- **Held:** Antidegradation standards require an assessment of overall water quality under Texas law



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# NEPA

- *Seven County Infrastructure Coalition v. Eagle County Colorado*, 605 U.S. \_\_\_\_ (2025)



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***SEVEN COUNTY INFRASTRUCTURE  
COALITION V. EAGLE COUNTY  
COLORADO, 605 U.S. \_\_\_\_ (2025)***

- Proposed railroad line connecting Uinita Basin to national rail
  - Potential for increased upstream drilling and downstream refining operations
  - DC Circuit vacated project approval – EIS inadequate
  - **Held:** NEPA does not require an evaluation of environmental effects that are separate in time and place from the proposed project
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# ***TROUBLE FOR NEPA?***

- *Marin Audubon Society v. Federal Aviation Administration, et al., No. 23-1067 (D.C. Cir. Nov. 12, 2024)*
  - Declared that NEPA does not give CEQ authority to issue judicially enforceable regulations
- *State of Iowa v. Council on Environmental Quality, No. 1:24-cv-00089 (D. N.D. Feb. 3, 2025)*
  - Declared that NEPA does not give CEQ authority to issue judicially enforceable regulations



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# CLIMATE CHANGE/GHG EMISSIONS

- Current litigation trends:
  - Greenhouse gas reporting rules
  - Interstate energy policies
  - Climate rights



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## ONES TO WATCH:

- *Texas et al. v. BlackRock Inc. et al., case number 6:24-cv-00437, (E.D. Tex. Nov. 27, 2024)*
  - 11 States (led by TX) sued BlackRock, Vanguard and State Street
  - Climate policies drove down coal production, increasing coal prices
  - **Question:** *Environmental investments or “Investment cartel”?*





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# ENDANGERED SPECIES ACT

- *Bear Warriors United, Inc. v. Lambert*, 2025 WL 1122327 (2025)
  - *State of Texas v. U.S. Department of the Interior et al.*, case number 7:24-cv-00233 (W.D. Tex. Sept. 23, 2024)
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***BEAR WARRIORS UNITED, INC. V. LAMBERT, 2025 WL 1122327 (2025)***



- Unlawful take of manatees
- Discharges compliant with Florida DEP wastewater regulations
- **Held:** Florida DEP's compliance with the CWA does not absolve it from compliance with ESA
  - CWA “is just one piece in the regulatory puzzle the state must solve.”

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## ***ONE TO WATCH:***

- *State of Texas v. U.S. Department of the Interior et al., case number 7:24-cv-00233 (W.D. Tex. Sept. 23, 2024)*
  - Dunes sagebrush lizard
  - Habitat availability dispute
  - ***Question:*** *Is USFWS required to use the “best scientific and commercial data available?”*







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# GREENWASHING

- Current litigation trends:
  - Single-use plastic products
- Ones to watch:
  - *Exxon Mobil Corp. v. Robert Andres Bonta et al., case number 1:25-cv-00011 (E.D. Tex. 2025)*



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***EXXON MOBIL CORP. V. ROBERT ANDRES BONTA ET AL., CASE NUMBER 1:25-CV-00011 (E.D. TEX. 2025)***



- Exxon advanced recycling
  - Intense heat to break down plastics to molecular level
- CA lawsuit against Exxon → deceptive business practices
- Exxon lawsuit against CA → reputational damage



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# WASTE

## Skull Creek Settlement:

- Inland Environmental and Remediation, Inland Recycling, and Boundary Ventures accused of repeated discharge-related violations
- 6-year legal battle
- Texas AG announced \$60 million settlement on May 9, 2025

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# Thank you!

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