2024-2025 Environmental Case Law Update

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I. Introduction

This paper summarizes noteworthy environmental-related state and federal court decisions decided within the last year. Specifically, this paper provides an overview of a select few of the key (and more closely watched) judicial developments in the areas of air, water, environmental project development, climate change, endangered species, greenwashing, and waste regulation.

A. Clean Air Act

1. Attainment Status for NAAQS

a) Background

Pursuant to the Clean Air Act ("CAA"), the Environmental Protection Agency ("EPA") promulgates national ambient air quality standards ("NAAQS") that set maximum permissible concentrations of pollutants that "may reasonably be anticipated to endanger public health or welfare."[2] When EPA adopts a new or revised NAAQS for any pollutant, each region of the U.S. must be designated as "attainment," "nonattainment," or "unclassifiable" for that standard.[3] Within one year of the new or revised NAAQS, each state is required to recommend designations to EPA for the regions within its borders. Within two years of the new or revised NAAQS, EPA is required to issue the final designations for each region of the U.S. For each area designated as "nonattainment," the applicable state must submit a revised state implementation plan ("SIP") that includes measures to meet the new standard.[4] In 2010, EPA established a NAAQS for sulfur dioxide at 75 parts per billion (ppb) measured as a one-hour average. This revision triggered the EPA requirement to determine whether the regions of the U.S. met the applicable standard.

b) Texas v. EPA

(1) Background

In 2011, Texas recommended that most regions within the state be designated as "unclassifiable." Due to a lack of sulfur dioxide monitoring data, EPA delayed making its final designations.

[1] The author would like to thank Clifford Chance summer associate Taoshu Ren for his contribution to this paper.
[2] 42 U.S.C. §7410(a)(1)(A).
[3] 42 U.S.C. §7407(d)(1)(A).
[4] 42 U.S.C. §7410(a)(2)(D).

Between August 2013 and March 2015, EPA submitted partial proposed designations for certain regions of the U.S. During this time, EPA was also compelled by a consent decree with Sierra Club, a non-profit environmental organization, to issue its final designations for the remaining regions.[5]

In December 2016, EPA released a final determination designating two Texas counties, Rusk County and Panola County, as "nonattainment" for sulfur dioxide. EPA based this decision on data provided by the Sierra Club, rejecting Texas' recommendation that the counties be designated as "unclassifiable." In August 2019, EPA issued a proposed "error correction" due to inaccuracies in the Sierra Club modeling data on which EPA previously relied. Following Sierra Club's submission of updated modeling data, EPA withdrew its proposed error correction and re-designated Rusk County and Panola County as "nonattainment."

(2) Case Holding

In Texas v. United States Env't Prot. Agency,[6] Texas petitioned for review of EPA's "nonattainment" findings for Rusk County and Panola County in the Fifth Circuit Court of Appeals ("Fifth Circuit"). Texas alleged that EPA improperly classified these counties. Texas based its argument on EPA's 2015 guidance, which stated that the CAA requires designation of an area as "unclassifiable" when the information at the time of designation does not "clearly demonstrate" that the area is in "attainment" or "nonattainment."

On May 16, 2025, the Fifth Circuit rejected EPA's nonattainment designations for Rusk County and Panola County, holding that EPA's classification of these counties as "nonattainment" for sulfur dioxide was arbitrary and capricious in violation of the Administrative Procedure Act ("APA"). Citing Loper Bright Enters v. Raimondo,[7] the Fifth Circuit stated that courts have the authority to conduct independent judgment in construing statutes administered by agencies and decide whether the agency has acted within its statutory authority. Notably, the Fifth Circuit further indicated that Loper should not be interpreted as an instruction for courts to completely ignore an agency's interpretation but to give their interpretation "with due respect" to the expertise of the agency. In its decision, the Fifth Circuit reasoned that the CAA requires EPA to designate a site as "unclassifiable" when available information "does not reliably support a finding of attainment or nonattainment." The court further reasoned that an area may be "unclassifiable" when there is "not much evidence, the competing evidence is too closely balanced, or when the evidence is dubious." As such, the Fifth Circuit concluded that, given the acknowledged limitations and conflicting monitoring data in Sierra Club's modeling, EPA should have "rationally explained" why a "nonattainment" designation was clear and not debatable, but, "[i]nstead, EPA seems to have forced a result on sparse and suspect evidence."

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[5] Sierra Club v. McCarthy, No. 3:13-CV-3953, 2015 WL 889142 (N.D. Cal. Mar. 2, 2015).
[6] No. 17-60088, 2025 WL 1417718 (5th Cir. May 16, 2025).
[7] 603 U.S. 369 (2024).

2. State Implementation Plans & the Good Neighbor Provision

a) Background

When EPA adopts revised NAAQS for a pollutant, states are required to amend their SIPs to implement the new standard. Each SIP must comply with the Good Neighbor Provision of the CAA, which prohibits "any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will…contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to" an air quality standard.[8] States must submit their revised SIPs within three years of the revised air quality standard. EPA must then, within 18 months of submittal, either approve or disapprove the revised SIP.

In 2015, EPA revised the ozone NAAQS, decreasing the maximum permissible concentration of ozone from 75 to 70 ppb. This revision triggered the state requirement to revise SIPs and implement the new standard in compliance with the Good Neighbor Provision.

In March 2018, EPA released guidance informing states that it planned to evaluate each state's compliance with the Good Neighbor Provision using a four-step process. This process included: (i) identifying downwind locations that would struggle to attain or maintain the air quality standard, (ii) identifying upwind states whose pollution sources contributed enough to those downwind air quality problems to warrant further review, (iii) relying on cost considerations to calculate the amount of emissions reductions needed to mitigate the downwind air quality impacts, and (iv) adopting permanent and enforceable measures to achieve such reductions. In the same time period, EPA also released guidance suggesting that states use EPA-provided modeling data from 2011 to develop their SIPs. In August 2018, EPA released additional guidance suggesting that states use a 1 ppb threshold to determine whether an upwind state pollutant source "contributed enough" to a downwind location to warrant further review. EPA explained that the 1 ppb threshold was "generally comparable" to its historical 1% rule.[9]

In 2023, after missing the review deadline, EPA disapproved revised SIPs in 21 states. These disapprovals resulted in over 20 lawsuits in eight circuit courts.

b) Kentucky v. EPA

(1) Background

Using the modeling data from EPA's March 2018 guidance and the 1 ppb screening threshold from EPA's August 2018 guidance, Kentucky found that it was not subject to Good Neighbor requirements as its emissions were only linked to one receptor in Maryland and at a level below 1 ppb. The state SIP revision process includes a notice and comment period allowing the public to

[8] 42 U.S.C. §7410(a)(2)(D).

[9] EPA historically found states that contributed less than 1% of a state's air quality did not "contribute enough" to warrant further review. This meant that for an ozone standard of 70 ppb, an upwind state that contributed less than .7 ppb of a downwind state's emissions would not be subject to the Good Neighbor Provision.

review and provide feedback on the state's proposed changes. During Kentucky's notice and comment period, EPA advised Kentucky to use the provided 2011 modeling data and 1 ppb threshold, describing it as a "more straightforward approach." In January 2019, Kentucky submitted its revised SIP relying on EPA's 2018 guidance and EPA's feedback during the notice and comment period. However, in 2023, EPA still disapproved Kentucky's SIP (along with 20 other states including Texas), finding that it did not sufficiently address Good Neighbor requirements.

(2) Case Holding

In Kentucky v. EPA,[10] Kentucky sought a review of EPA's denial in the Sixth Circuit Court of Appeals ("Sixth Circuit"). Kentucky challenged the disapproval alleging that EPA's divergence from its own guidance in denying Kentucky's SIP was "arbitrary and capricious" under the APA. EPA based its denial of Kentucky's SIP on modeling data from 2016 (as opposed to the 2011 modeling data in its March 2018 guidance) and the 1% threshold (as opposed to the 1 ppb threshold advised in its August 2018 guidance).

The Sixth Circuit vacated EPA's disapproval of Kentucky's SIP finding that EPA's unexplained divergence from its own guidance in issuing a final decision was "arbitrary and capricious" under the APA. The Sixth Circuit rejected EPA's request to remand the case without vacating EPA's disapproval of Kentucky's plan noting that remanding without vacating is a "rare remedy" reserved for decisions concerning technical errors or decisions that would have an unusually disruptive effect if vacated. The Sixth Circuit found that EPA's departure from guidance was not a technical error but instead was a "fundamental defect," at one point referring to EPA's actions as a "bait-and-switch tactic."

c) Texas v. EPA

(1) Background

In preparing revised SIPs, Texas, Louisiana, and Mississippi each concluded that it was not subject to Good Neighbor requirements. Texas used its own modeling data and methodology to evaluate its Good Neighbor requirements. Texas' approach involved an evaluation of the "significance" of its emissions contributions to downwind states. The state reasoned that it would only be subject to Good Neighbor requirements if its emissions showed a "persistent and consistent pattern of contribution" to downwind states. Following this approach, Texas identified emissions contributions above its chosen thresholds for certain downwind states but found that its emissions did not "contribute significantly" to nonattainment in those states. Louisiana took a similar approach. Louisiana also identified emissions contributions above its chosen threshold for certain downwind states but found that its emissions contributions to those states were not "significant" because there was not a "persistent and consistent pattern of contribution." Mississippi (similarly to Kentucky) used the 2011 modeling data referenced in EPA's March 2018 guidance and the 1

[10] 123 F.4th 447 (2024).

ppb threshold in EPA's August 2018 guidance to evaluate its Good Neighbor requirements. Using this approach, Mississippi did not identify emissions contributions above the EPA provided thresholds for any downwind states. In 2022, EPA disapproved all three states' revised SIPs.

(2) Case Holding

The states challenged EPA's disapproval in the Fifth Circuit. In Texas v. United States Env't Prot. Agency,[11] both Louisiana and Texas argued that EPA erred in disapproving their SIPs because neither state "contribute[d] significantly" to nonattainment in any downwind states. Although they used a methodology that was different from that of EPA, Louisiana and Texas each noted that it had provided a "reasoned analysis" for its conclusions regarding the significance of emissions contributions. The Fifth Circuit held that EPA must approve a SIP that is legally compliant with the CAA but is not required to approve a SIP solely because it contains a reasoned analysis. The Fifth Circuit noted that it is EPA's responsibility to evaluate and confirm that a SIP meets the CAA's Good Neighbor requirements. In evaluating Louisiana's and Texas' SIPs, EPA disagreed with their chosen methodology but found that even under each state's own modeling and outlined significance test, their emissions contribution findings triggered Good Neighbor requirements. The Fifth Circuit thus found that, because Louisiana's and Texas' SIPs were technically flawed, EPA's disapproval was not "arbitrary and capricious" in violation of the APA.

The Fifth Circuit's approach in evaluating Mississippi's SIP largely aligned with the Sixth Circuit's ruling in Kentucky v. EPA.[12] Mississippi used the 2011 modeling data referenced in EPA's March 2018 guidance to evaluate its Good Neighbor requirements, but EPA based its disapproval of Mississippi's SIP on 2016 modeling data. Although the Fifth Circuit did not point directly to EPA's inconsistent guidance in 2018 as problematic, the Fifth Circuit found that EPA's disapproval was "arbitrary and capricious" because the 2016-based modeling data was not available to Mississippi at the time the state submitted its SIP. The Fifth Circuit noted that although EPA is not forbidden from using the updated modeling data in its review, it cannot do so in an "outcome determinative" manner. Since the emissions contributions that would have triggered Good Neighbor requirements were only identified under the 2016 modeling data, EPA's reliance on it was "outcome-determinative" and as such, unlawful. Similar to Kentucky v. EPA, the Fifth Circuit vacated EPA's disapproval before remanding. The Fifth Circuit explained that under the CAA, a SIP must be lawfully disapproved before EPA can implement a Federal Implementation Plan as a backstop.

d) Oklahoma v. EPA

(1) Background

In preparing revised SIPs, both Oklahoma and Utah found that they were not subject to Good Neighbor requirements. Following EPA's rejection of their SIPs, Oklahoma and Utah brought challenges in the Tenth Circuit Court of Appeals ("Tenth Circuit"). EPA moved to dismiss the

[11] 132 F.4th 808 (5th Cir. 2025).
[12] 123 F.4th 447 (2024).

challenge or transfer the case to the D.C. Circuit Court of Appeals ("D.C. Circuit"). Instead of reviewing EPA's disapproval, consistent with the approach of the Fourth, Fifth and Sixth Circuits Courts, the Tenth Circuit granted EPA's petition to remove the case to the D.C. Circuit. The Tenth Circuit found that the D.C. Circuit was the proper venue because EPA's aggregation of 21 SIP disapprovals into one Federal Register rule constitutes a single "action" with "national applicability." The Tenth Circuit found the geographic breadth of EPA's disapprovals (covering "21 states across the country") and EPA's application of a uniform statutory interpretation and common analytical methods in reviewing the SIPs persuasive in reaching its conclusion. The states petitioned for judicial review of EPA's disapproval and the Tenth Circuit's removal of the case to the D.C. Circuit.

(2) Case Holding

In Oklahoma v. EPA,[13] the U.S. Supreme Court ("Supreme Court") reversed the Tenth Circuit decision, holding that EPA's disapproval of Oklahoma's and Utah's SIPs are locally or regionally applicable actions reviewable in a regional circuit court. The Supreme Court found that, under the CAA, 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." The Supreme Court identified one exception to this rule stating that an action with "nationwide scope or effect" can "override the default of the regional Circuit review for local or regionally applicability actions." In other words, an action that is locally applicable can nonetheless be removed to the D.C. Circuit if it has nationwide applicability. The Supreme Court also found that EPA's actions did not meet the nationwide exception as each SIP review required "fact-intensive, state-specific" analysis. The Supreme Court noted that although EPA's approach in reviewing the SIPs were applied nationwide, this was not the "primary driver" of EPA's decision because EPA's reasoning for disapproval varied by state and turned on circumstances specific to each state.

B. Clean Water Act

1. City and County of San Francisco, California v. EPA

a) Background

The Clean Water Act ("CWA") authorizes EPA to issue and enforce permitting requirements related to the discharge of pollutants into waters of the U.S. The City of San Francisco operates a wastewater treatment facility that is permitted by EPA under the CWA. In 2019, EPA added two "end-result" requirements to San Francisco's National Pollutant Discharge Elimination System ("NPDES") permit, prohibiting the city from "making any discharge that contributes to a violation of any applicable water quality standard" for receiving waters and providing that the City of San Franscisco cannot perform any treatment or make any discharge that "creates pollution,

[13] 605 U.S. --- (2025).

contamination, or nuisance as defined by the California Water Code section 13050." These requirements were approved by the California Regional Water Quality Control Board and EPA. San Franscisco appealed the restrictions and later filed a petition for review in the Ninth Circuit Court of Appeals ("Ninth Circuit"). The Ninth Circuit upheld the EPA restrictions holding that Section 1311(b)(1)(C) of the CWA authorizes EPA to impose "any" limitations that seek to ensure that applicable water quality standards are satisfied.

b) Case Holding

In City and County of San Francisco, CA v. EPA,[14] the Supreme Court reversed the Ninth Circuit decision, holding that §1311(b)(1)(C) does not authorize the EPA to impose "end-result" provisions in NPDES permits. The Supreme Court found that the CWA requires EPA to impose "concrete measures" that set out the actions necessary to meet water quality standards. The Supreme Court explained that such "end-result" requirements would allow a permittee, regardless of any mitigation practices taken, to be held liable if the quality of water it discharges into fails to meet water quality standards. This approach would run counter to the CWA's "permit shield" provision, which deems a permittee in compliance with the CWA if it follows all the terms in its permit.[15] The Supreme Court further reasoned that this "backwards looking approach" would create issues of liability when there are multiple dischargers in a receiving water noting that "there may be dozens of or even hundreds of permitted and unpermitted discharges into the same waterbody." EPA argued that, at a minimum, end-result limitations should be permissible when information necessary to develop effluent limitations is unavailable since a permittee has better access to information related to its operations and the types of mitigating measures that could be implemented. The Supreme Court found this argument unpersuasive stating that "EPA possesses the expertise (which it regularly touts in litigation) and the resources necessary to determine what a permittee should do."

2. Save Our Springs Alliance v. TCEQ

a) Background

In 2015, the City of Dripping Springs filed an application with Texas Commission for Environmental Quality ("TCEQ") for a permit to discharge treated wastewater into Walnut Springs and Onion Creek. Pursuant to the Texas Administrative Code, TCEQ may only issue a wastewater permit for discharges into a waterway if Tier I and Tier II antidegradation standards are met.[16] Under these standards, a permitted discharge may not disturb existing water uses or degrade the water. The permit application identified a potential reduction in dissolved oxygen concentrations but noted that overall concentrations would still be above the permitted levels. Following a technical review of the application, TCEQ issued a preliminary decision granting the permit application.

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[14] 604 U.S. --- (2025).
[15] 33 U.S.C. §1342(k).
[16] 30 Tex. Admin Code § 307.5(a)-(b).

§1342(d) of the CWA authorizes EPA to review and veto state approval of any discharge permit that does not comply with federal law.[17] The EPA reviewed the draft permit application and issued certain objections, including a request for additional information regarding the application's compliance with state antidegradation standards. After receiving satisfactory responses and supporting documentation from TCEQ, EPA determined that the antidegradation standards were satisfied and found that any changes to the receiving water body would be "de minimis (i.e., less than noticeable)," "no significant degradation of water quality will occur," and "existing uses will be maintained in Onion Creek."[18] Following EPA's review, TCEQ approved the permit.

b) Case Holding

Save Our Springs Alliance, a non-governmental organization, successfully challenged the permit approval in the Travis County District Court. Save Our Springs Alliance argued that antidegradation standards should be reviewed on a "parameter-by-parameter" basis. Under this approach, the degradation of one parameter would be sufficient to deny a wastewater permit application. TCEQ argued that antidegradation standards require a "whole water" approach in which the overall water quality is considered in making a permit determination. The Eighth District Court of Appeals of Texas ("Texas Court of Appeals") reversed the lower court ruling and upheld TCEQ's permit approval agreeing with TCEQ's "whole water" approach. In Save Our Springs Alliance v. TCEQ,[19] the Texas Supreme Court affirmed the Texas Court of Appeals' decision, upholding TCEQ's issuance of a wastewater discharge permit to the City of Dripping Springs. The Texas Supreme Court concluded that antidegradation standards require an assessment of overall water quality under Texas law.

C. NEPA

1. Infrastructure Coalition v. Eagle County, Colorado

a) Background

The U.S. Surface Transportation Board (the "Transportation Board") is the federal agency that determines whether to approve construction of new railroad lines. The National Environmental Policy Act ("NEPA") requires federal agencies to assess the environmental impacts of their proposed actions. As such, NEPA requires that the Transportation Board prepare an environmental impact statement ("EIS") evaluating the environmental impacts of any proposed railroad line before deciding whether to approve the project. In 2020, the Seven County Infrastructure Coalition submitted a proposal to the Transportation Board for an 88-mile railroad line connecting the Uinta Basin to the national rail line. As required under NEPA, in October 2020, the Transportation Board issued a draft EIS which was subject to a public comment period. The Transportation Board

[17] 33 U.S.C. §142(d).
[18] Texas Comm'n on Env't Quality v. Save Our Springs All., Inc., 668 S.W.3d 710 (Tex. App. 2022), aff'd, 713 S.W.3d 308 (Tex. 2025)
[19] 713 S.W.3d 308 (2025).

published the final EIS in August 2021. In December 2021, the Transportation Board approved the proposed project, finding that the project's transportation and economic benefits outweighed its environmental impacts.

b) Case Holding

Environmental organizations and Colorado County challenged the project's approval and filed a petition for review in the D.C. Circuit. The D.C. Circuit vacated the Transportation Board's approval holding that the Transportation Board's EIS impermissibly failed to take account of the environmental impacts of potential upstream and downstream projects. In Seven County Infrastructure Coalition v. Eagle County Colorado,[20] the Supreme Court reversed the D.C. Circuit Court decision. The Supreme Court found that the D.C. Circuit "did not afford the [Transportation Board] the substantial judicial deference required in NEPA cases." Under NEPA, "an agency's only obligation is to prepare an adequate report." NEPA imposes no substantive constraints on the agency's ability to approve a proposed project. NEPA only requires that the agency has identified significant environmental consequences and feasible alternatives. The Supreme Court further explained that so long as an EIS addresses environmental effects from the project, the court should defer to the agencies' decisions on the length, content, and level of detail.

The Supreme Court further reviewed the merits of the EIS under NEPA. The Supreme Court held that the Transportation Board's EIS did not need to address the environmental impacts of potential upwind and downwind projects. The Supreme Court explained that future or geographically separate projects are outside the scope of the "proposed action" requiring review under NEPA. The Supreme Court was careful to note that this ruling does not eliminate NEPA's requirement to evaluate environmental effects that occur outside the project site (i.e., runoff into a river that flows miles away from the project site causing pollution and wildlife impacts). However, the potential for increased use of a separate project or the potential construction of a future related project "breaks the chain of proximate causation."

2. Marin Audubon Society v. Federal Aviation Administration

NEPA has recently been the subject of other cases and certain executive actions. On November 20, 2024, in Marin Audubon Society v. Federal Aviation Administration, et al.,[21] the D.C. Circuit of Appeals declared that NEPA does not give the Council on Environmental Quality ("CEQ") the authority to issue judicially enforceable regulations. Just a few months later, on January 20, 2025, President Trump issued Executive Order 14154 proposing that CEQ provide guidance on implementing NEPA and rescind its NEPA regulations.[22] On February 25, 2025, CEQ issued an Interim Final Rule removing 40 C.F.R. Parts 1500–1508 from the Code of Federal Regulations, thereby rescinding its procedural requirements for federal environmental reviews.[23] Given the

[20] 605 U.S. ____ (2025).
[21] No. 23-1067 (D.C. Cir. 2025).
[22] 90 FR 8353.
[23] 90 FR 10610.

withdrawal of CEQ's NEPA regulations and a shift away from agency deference in the courts post-Loper, the future of agency implementation of NEPA requirements is unclear.

D. Climate Change/GHG Emissions

Climate change litigation continues to increase across the country. There have been several lawsuits surrounding EPA's greenhouse gas reporting rules, interstate energy policies, and purported "climate rights" – the right to a clean and healthful environment.

1. Texas et al. v. BlackRock Inc. et al.

Texas et al. v. BlackRock Inc. et al.,[24] is a notable case to watch in this area as it tests the economic impact of corporate sustainability practices in the courts. Eleven states, led by Texas, filed a suit in the U.S. District Court for the Eastern District of Texas against BlackRock, Vanguard Group Inc., and State Street Corp. alleging violations of federal antitrust laws. The states allege that the companies cooperated in running an "investment cartel" using their collective holdings in publicly traded energy companies to reduce coal production and thereby increase coal prices. The decision in this case will tackle the question of whether certain corporate sustainability activities and initiatives, including the reduction of coal production to further climate goals and achieve carbon emissions targets, run afoul of antitrust law.

E. Endangered Species Act

The Endangered Species Act ("ESA") protects species that are at risk of extinction and places protections on certain species listed as either "endangered" or "threatened" depending on factors such as species count, habitat destruction, or other identified threats. Under the ESA, it is unlawful for any person to "take" a listed species within the U.S. unless authorized under an incidental take permit.[25]

1. Bear Warriors United, Inc. v. Lambert

a) Background

Florida manatees are considered a key species of the state and can typically be found in many of its waterways. The Florida manatee was classified as a federal endangered species in May 2017. In 2021, Florida had a record 1,100 manatee deaths. In 2022, the Bear Warriors United wildlife advocacy group filed a lawsuit against the Florida Department of Environmental Protection ("Florida DEP") claiming that Florida DEP's wastewater discharge regulations unlawfully take manatees in violation of the ESA. Bear Warriors United alleged that discharges made pursuant to Florida DEP regulations resulted in excess nutrients in the water causing an increase in algae blooms and the death of seagrasses (a primary food source for manatees). Florida DEP argued that its regulations were implemented in compliance with the CWA and as such, should be upheld.

[24] No. 6:24-cv-00437 (E.D. Tex. Nov. 27, 2024).
[25] 16 U.S.C §1539(a)(1)(B).

b) Case Holding

In Bear Warriors United, Inc. v. Lambert,[26] the U.S. District Court of Florida ("Florida District Court") held that, given the impact on manatees' populations, Florida DEP's regulations were inconsistent with and pre-empted by the ESA. The Florida District Court found that the Florida DEP's compliance with the CWA does not absolve it from compliance with the ESA noting that the CWA "is just one piece in the regulatory puzzle the state must solve." The Florida District Court granted Bear Warriors United injunctive relief and required that Florida DEP obtain an incidental take permit.

2. State of Texas v. U.S. Department of the Interior et al.

State of Texas v. U.S. Department of the Interior et al.,[27] is another notable case to watch in this area. In May 2024, the U.S. Fish and Wildlife Service ("USFWS") published a final administrative rule finding that the dunes sagebrush lizard is impacted by habitat loss and climate change – primarily the increasing frequency and intensity of drought seasons.[28] In this case, Texas is challenging this USFWS determination. Texas claims that the habitat quality metrics USFWS employed in making the endangerment determination resulted in inaccurate predictions about the lizard's future habitat availability. The U.S. Western District Court of Texas will determine whether the final rule violates the ESA by failing to consider the "best scientific and commercial data available" and adequately consider voluntary conservation.

F. Greenwashing

Litigation and regulatory enforcement surrounding plastic products is on the rise. In February 2024, the State Attorneys General Offices of the District of Columbia, Massachusetts, California, Connecticut, Delaware, Illinois, Maryland, Minnesota, Oregon, Vermont, and Washington signed a comment letter encouraging the federal government to increase its focus on single-use plastics.[29] Most litigation in this area has focused on consumer claims against companies with plastic products. However, some companies have also filed defamation-related countersuits against conservation groups.

1. Exxon Mobil Corp. v. Robert Andres Bonta et al

In Exxon Mobil Corp. v. Robert Andres Bonta et al.,[30] Exxon Mobil Corp. alleges that the California Attorney General and a coalition of conservation groups have caused the company

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[26] 2025 WL 1122327 (2025).
[27] Case number 7:24-cv-00233 (W.D. Tex. Sept. 23, 2024).
[28] 50 CFR Part 17.
[29] *See* Att'y Gen. Letter to Jeffrey Koses, *Re: Comments on GSA Proposed Regulation re: Reduction of Single-Use Plastic*, Docket GSA-GSAR-2023-0028 (February 26, 2024), available at https://oag.ca.gov/system/files/attachments/press-docs/Multistate%20Comments%20to%20GSA%20on%20Single%20Use%20Plastic%20Packaging%20Proposal.pdf.
[30] Case number 1:25-cv-00011 (E.D. Tex. 2025).

reputational damage with misrepresentations concerning its advanced recycling process. Exxon asserts that its advanced recycling process, which uses intense heat to break down plastic products at a molecular level, is "part of the solution to plastic waste." This case comes as a response to California's lawsuit against Exxon Mobil alleging that the company misled the public and engaged in deceptive business practices by making false statements about the efficacy of advanced recycling. In May 2025, the City of Beaumont, Texas intervened on behalf of Exxon asserting that the conduct of the California Attorney General and conservation groups involved in the lawsuit has impacted the city's efforts to reduce the amount of plastic going into landfills.

G. Waste

On May 9, 2025, the Texas Attorney General's office announced that it secured a $60 million settlement against David Polston, Inland Environmental and Remediation, Inland Recycling, and Boundary Ventures.[31] This settlement follows a six-year long legal battle related to commercial dumping into Skull Creek in Colorado County, Texas. In 2019, TCEQ received complaints related to Skull Creek, which flows into the Colorado River, stating that the creek "was running black with a pungent smell downstream." The state sued Inland Environmental and Remediation, Inland Recycling, and Boundary Ventures, the operators of a nearby waste-processing facility that accepts oil and gas waste, hazardous waste, and industrial solid waste. The state alleged that the waste-processing facility had violated the Texas Water Code by discharging waste into public waters. The state further alleged that the facility had not addressed the discharge-related violations or taken appropriate preventative measures to stop further discharges. The settlement follows a guilty plea on May 1, 2024, from Inland Recycling CEO David Polston, to the offense of Intentional or Knowing Unauthorized Discharge.[32]

[31] *See* Tx. Off. of the Att'y Gen. Press Release, *Attorney General Ken Paxton Protects Texas Environment and Secures $60 Million Judgment Against Recycling Company Dumping Chemicals Into River*, (May 9, 2025), available at https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-protects-texas-environment-and-secures-60-million-judgment-against#:~:text=AUSTIN%20%E2%80%93%20Attorney%20General%20Ken%20Paxton,in%20Texas%20waterways%20and%20lands.

[32] See Tx. Off. of the Dist. Att'y Press Release, *Travis County DA's Office Secures Guilty Plea in Environmental Pollution Case,* (May 7, 2024), available at https://districtattorney.traviscountytx.gov/travis-county-da-guilty-plea-environmental-pollution-case/.