

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

March 22, 2017

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 16-60118 State of Texas, et al v. EPA, et al  
Agency No. 81 Fed. Reg. 296

Enclosed is an order entered in this case.

Your appeal has been placed in abeyance this date pending resolution of the Agency as set out in this Court's attached order. Once the case has been removed from abeyance, you will receive notification from this court with any additional instructions.

Counsel for respondents must file a status report through the ECF system on 04/06/2017 and every 15 days thereafter advising this court of the current status until final resolution.

Sincerely,

LYLE W. CAYCE, Clerk



By: Cindy M. Broadhead, Deputy Clerk  
504-310-7707

Mr. Mark H. Allison  
Mr. Clinton Frederick Beckner III  
Ms. Lisa Bennett  
Ms. Kellie Elizabeth Billings-Ray  
Mr. William M. Bumpers  
Mr. David Aiken Carson  
Ms. Devi Chandrasekaran  
Mr. Norman William Fichthorn  
Mr. Aaron Michael Flynn  
Mr. Matthew Gerhart  
Mr. Philip Stephen Gidiere III  
Ms. Debra J. Jezouit  
Mr. Daniel Jude Kelly  
Mr. Matthew Lynn Kuryla  
Mr. Dustin J. Maghamfar  
Mr. Derek Raymond McDonald  
Mr. David Welles Mitchell  
Ms. Stephanie Zapata Moore  
Mr. Michael J. Nasi  
Mr. Daniel Pinkston  
Mr. Scott Pruitt

Mr. Carlos Ricardo Romo  
Ms. Elena Kathryn Saxonhouse  
Ms. Ann M. Seha  
Mr. Joshua Smith  
Mr. Aaron Michael Streett  
Mr. David Richard Taggart  
Mrs. Natalie J. Taylor  
Mr. Eugene Marc Trisko  
Mr. Mark L. Walters  
Ms. Mary Melissa Whittle

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 16-60118

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STATE OF TEXAS; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PUBLIC UTILITY COMMISSION OF TEXAS; LUMINANT GENERATION COMPANY, L.L.C.; BIG BROWN POWER COMPANY, L.L.C.; LUMINANT MINING COMPANY, L.L.C.; BIG BROWN LIGNITE COMPANY, L.L.C.; LUMINANT BIG BROWN MINING COMPANY, L.L.C.; SOUTHWESTERN PUBLIC SERVICE COMPANY; UTILITY AIR REGULATORY GROUP; COLETO CREEK POWER, L.P.; NRG TEXAS POWER, L.L.C.; NUCOR CORPORATION,

Petitioners

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; SCOTT PRUITT, in his official capacity as Administrator of the United States Environmental Protection Agency,

Respondents

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Petitions for Review of an Order of the  
Environmental Protection Agency

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Before CLEMENT, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:

IT IS ORDERED that in light of this court's determination that Petitioners and Petitioner-Intervenors demonstrated a substantial likelihood that Respondent exceeded its statutory authority and otherwise acted arbitrarily and capriciously in issuing the Final Rule's SIP disapprovals and FIP provisions, Respondent's motion to remand the case for reconsideration is GRANTED.

IT IS FURTHER ORDERED that Respondent's motion to lift the stay with regard to the sections of the Final Rule approving portions of the Texas and Oklahoma SIPs is DENIED.

IT IS FURTHER ORDERED that the joint motion of Petitioners and Petitioner-Intervenors for summary vacatur of the Final Rule's SIP disapprovals and FIP provisions based on the legal errors identified in the Stay Order is DENIED.

IT IS FURTHER ORDERED that the joint motion of Petitioners and Petitioner-Intervenors for an order clarifying that the Stay Order encompasses all aspects of the Final Rule without exception and prohibits Respondent from relying on any of its SIP disapprovals or FIP actions and related findings in the Final Rule in any subsequent rule or action while the stay is in place is DENIED.