

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____)	
AMERICAN LUNG ASS’N, et al.,)	
)	
Petitioners,)	
)	
v.)	Docket No. 17-1172
)	(and consolidated cases)
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, et al.,)	
)	
Respondents.)	
_____)	

**RESPONDENTS’ MOTION TO GOVERN
FURTHER PROCEEDINGS**

In accordance with the Court’s Order of October 6, 2017, ECF No. 1697661, Respondents United States Environmental Protection Agency and Scott Pruitt, Administrator, (collectively “EPA”) submit this Motion to Govern Further Proceedings. The undersigned counsel has contacted counsel for petitioners. Counsel for petitioners American Lung Association, et al., (“ALA”) and Appalachian Mountain Club and counsel for petitioners State of New York, et al., have represented that they each intend to file a separate motion to govern.

This case consists of consolidated petitions for review of an action by EPA titled “Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards,” which was published in the Federal Register at 82 Fed. Reg. 29,246 (June 28, 2017). That action was subsequently withdrawn by EPA. 82 Fed. Reg. 37,318 (Aug. 10, 2017). In its October 6 Order, the Court held the case in abeyance in response to a request from ALA that the case be held in abeyance until November 8, 2017 to allow, inter alia, for the passage of the period for filing petitions for review of EPA’s action withdrawing the deadline extension. No such petition was filed. On November 6, 2017, the EPA Administrator signed a final rule making designations for specified areas. *See* Rule 28(j) Letter being filed simultaneously with this motion. As stated in the final rule (at page 3), EPA intends to address the remaining areas in a separate future action and is not extending the time provided under section 107(d)(1)(B) of the Clean Air Act.

EPA believes that the Court should now proceed to decide the currently pending motions, i.e., EPA’s motion to dismiss the petitions as moot, ALA’s motion for summary vacatur or stay pending judicial review, and ALA’s request that the Court vacate the EPA action granting the extensions if it dismisses the case as moot. These motions are all fully briefed, and there is no reason why the motions cannot be decided now.

Respectfully submitted,

JEFFREY H. WOOD

Acting Assistant Attorney General

/s/ Norman L. Rave, Jr.

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Counsel for Respondents

November 8, 2017

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the requirements of Fed. R. App. P. Rule 27(d)(2) because it contains 324 words according to the count of Microsoft Word and therefore is within the word limit of 5,200 words.

Dated: November 8, 2017

/s/ Norman L. Rave, Jr.
Norman L. Rave, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2017, I caused a copy of the foregoing document to be served by the Court's CM/ECF system on all counsel of record in this matter.

/s/ Norman L. Rave, Jr.
Norman L. Rave, Jr.