

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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CENTER FOR  
BIOLOGICAL DIVERSITY, *et al.*,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,

Respondents.

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No. 11-1101  
(and consolidated cases)

**MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE***  
**IN SUPPORT OF RESPONDENTS**

The National Association of Clean Water Agencies (NACWA) respectfully requests this Court, under Federal Rule of Appellate Procedure 29, for leave to file the attached brief as *amicus curiae* in support of Respondents, the United States Environmental Protection Agency and Lisa P. Jackson, Administrator (collectively, “EPA”). As more fully explained in the brief, NACWA is a national trade organization representing the interests of the nation’s publically owned wastewater utilities (“POTWs”) and has an interest in this case because the EPA rule at issue defers the regulation of biogenic emissions of carbon dioxide (CO<sub>2</sub>) from POTWs.

NACWA represents the interest of nearly 300 of the nation's POTWs serving the majority of the sewered population in the United States. Its membership includes municipally-owned clean-water utilities all across the United States whose facilities treat municipal sewage, collect biosolids, and produce biogenic gases as part of the wastewater treatment process.

Neither EPA nor any other party has addressed in detail the important and unique issues associated with permitting CO<sub>2</sub> emissions from POTWs. POTWs generate biogenic CO<sub>2</sub> emissions both from the activated sludge-handling processes typical of every POTW, as well as from the combustion of biosolids to produce power or heat, or for disposal, which occurs at many POTWs. Biogenic CO<sub>2</sub> emissions are largely inherent in virtually all POTW treatment processes, and larger emissions occur at the many POTWs that rely on biosolids combustion for power generation or disposal; therefore, NACWA's members have significant concerns that POTWs will have to bear the burden of seeking and complying with PSD and/or Title V permits in order to continue to discharge their critical public service functions. Accordingly, NACWA has a vital interest in presenting the perspective of the municipal POTW community to the Court on this important issue, and the perspective offered to the Court in the attached brief is directly relevant to the disposition of the case.

Respectfully submitted,

NATIONAL ASSOCIATION OF CLEAN  
WATER AGENCIES.

/s/ Lisa Sharp

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Dated: May 21, 2012

**ADDENDUM**

**CERTIFICATE OF PARTIES AND DISCLOSURE STATEMENT FOR  
THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES**

**A. Certificate of Parties, Rulings and Related Cases**

Pursuant to Circuit Rule 28, the National Association of Clean Water Agencies (NACWA) submits the following supplemental statement as to parties, rulings, and related cases:

(1) Parties and *Amici*

Except for the following, all parties, intervenors, and amici appearing in this Court are listed in the Opening Brief of Petitioners, and Opening Brief of Respondents:

National Association of Clean Water Agencies

(2) Rulings Under Review

Petitioners seek review of a final action of the Environmental Protection Agency entitled *Deferral for CO2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs*, 76 Fed. Reg. 43,490 (July 20, 2011).

(3) Related Cases

References to related cases appear in the Opening Brief of Petitioners.

**B. Disclosure Statement**

Pursuant to D.C. Circuit Rule 27(a)(4), NACWA discloses that it is a trade association organized under the laws of the District of Columbia, and represents the interest of nearly 300 of the nation's publicly owned treatment works (POTWs) in legislative, regulatory, and litigation advocacy matters. Collectively, NACWA-member agencies serve the majority of the sewered population in the United States. NACWA has no parent companies, and no publicly held company has a 10% or greater ownership interest in NACWA.

/s/ Lisa Sharp  
Lisa Sharp

Dated: May 21, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of May, 2012, a true copy of the foregoing was sent to all attorneys of record in this proceeding via the Court's electronic filing system:

/s/ Lisa Sharp  
Lisa Sharp

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