



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

July 29, 2021

By ECF

Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *State of New York, et al. v. Regan, et al.*, No. 21 Civ. 252 (ALC)

Dear Judge Carter:

This Office represents the defendants, the United States Environmental Protection Agency, and its Administrator, Michael S. Regan, in his official capacity (together, the “EPA”), in this action. With plaintiffs’ consent, I write to provide a status update and to respectfully request an adjournment without date of EPA’s answer obligation.

As noted in previous letters, the parties have been engaged in settlement discussions. Earlier this month, the form of a proposed consent decree that would resolve this action was approved by plaintiffs, and also—subject to the results of the public comment process described below—by EPA and the Department of Justice. The Clean Air Act requires that before a settlement may be finalized, EPA must “provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing.” 42 U.S.C. § 7413(g). Once any comments are received, the Act provides that “[t]he Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement if the comments disclose facts or considerations which indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of this chapter.” *Id.*

Earlier today, consistent with these requirements, the government published a notice in the *Federal Register* and opened an administrative docket for public comment on the proposed consent decree. See Proposed Consent Decree, Clean Air Act Citizen Suit, 86 Fed. Reg. 40,825 (July 29, 2021), at <https://www.federalregister.gov/documents/2021/07/29/2021-16155/proposed-consent-decree-clean-air-act-citizen-suit>; see also Docket ID No. EPA-HQ-OGC-2021-0444 at <https://www.regulations.gov/docket/EPA-HQ-OGC-2021-0444>. The comment period will close on Monday, August 30, 2021.

In light of the publication of the proposed consent decree and the opening of the comment period, the government respectfully requests that EPA's time to answer or otherwise respond to the complaint—which is currently tomorrow, July 30, 2021—be adjourned without date. The government further proposes that the parties file a joint status report by September 10, 2021. Plaintiffs consent to these requests.

We thank the Court for its attention to this matter.

Respectfully,

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Southern District of New York

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cc: All counsel of record (by ECF)