

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

STATE OF CALIFORNIA, by and  
through Attorney General Xavier  
Becerra and the California Air  
Resources Board; STATE OF  
ILLINOIS; STATE OF MARYLAND;  
STATE OF NEW MEXICO; STATE OF  
OREGON; COMMONWEALTH OF  
PENNSYLVANIA; STATE OF RHODE  
ISLAND; STATE OF VERMONT,  
*Plaintiffs-Appellees,*

ENVIRONMENTAL DEFENSE FUND,  
*Intervenor-Plaintiff-Appellee,*

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY; ANDREW WHEELER, Acting  
Administrator of the U.S.  
Environmental Protection Agency,  
*Defendants-Appellants,*

and

E. SCOTT PRUITT, Administrator,  
U.S. EPA,  
*Defendant.*

No. 19-17480

D.C. No.  
4:18-cv-03237-  
HSG

OPINION

Appeal from the United States District Court  
for the Northern District of California  
Haywood S. Gilliam, Jr., District Judge, Presiding

Argued and Submitted July 17, 2020  
San Francisco, California

Filed October 22, 2020

Before: Eugene E. Siler,\* Kenneth K. Lee, and  
Patrick J. Bumatay, Circuit Judges.

Opinion by Judge Bumatay

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### **SUMMARY\*\***

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#### **Environmental Law**

The panel reversed the district court's decision to deny a Fed. R. Civ. P. 60(b) motion to modify an injunction which required the U.S. Environmental Protection Agency ("EPA") to promulgate its federal landfill emissions plan by November 6, 2019.

Several States sued to force the EPA to promulgate its federal plan. Subsequent to the district court's May 6, 2019 injunction order, the EPA promulgated new regulations

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\* The Honorable Eugene E. Siler, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

\*\* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

moving the EPA's deadline for promulgating a federal plan to August 30, 2021. Faced with the dueling deadlines of the district court's injunction requiring a plan by November 6, 2019, and the new regulations establishing August 30, 2021 as the deadline, the EPA filed its Rule 60(b) motion requesting relief from the district court's injunction.

The panel held that the district court abused its discretion in denying the EPA's request for relief under Fed. R. Civ. P. 60(b)(5) because EPA's new regulations constituted a change in law, and removed the legal basis for the court's deadline. A shift in the legal landscape that removed the basis for an order warranted modification of the injunction. The panel rejected the States' contention that courts must look beyond the new regulations and conduct a broad, fact-specific inquiry into whether modification prevented inequity. The panel remanded with instruction for the district court to modify the injunction consistent with this opinion.

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### COUNSEL

Joan M. Pepin (argued), David Gunter, and Leslie M. Hill, Attorneys; Eric Grant, Deputy Assistant Attorney General; Jeffrey Bossert Clark, Assistant Attorney General; Environment and Natural Resources Division, United States Department of Justice, Washington, D.C.; Matthew C. Marks and Karen J. Palmer, Attorneys, EPA Office of General Counsel, Washington, D.C.; for Defendants-Appellants.

Elizabeth B. Rumsey (argued) and Julia K. Forgie, Deputy Attorneys General; Gary Tavetian and David A. Zonana, Supervising Deputy Attorneys General; Robert Byrne and

Sally Magnani, Senior Assistant Attorneys General; Xavier Becerra, Attorney General; Office of the Attorney General, Oakland, California; Kwame Raoul, Attorney General; Daniel I. Rottenberg, Assistant Attorney General; Attorney General's Office, Chicago, Illinois; Brian E. Frosh, Attorney General; Leah J. Tulin, Assistant Attorney General; Attorney General's Office, Baltimore, Maryland; Hector Balderas, Attorney General; Bill Grantham, Assistant Attorney General; Office of the Attorney General, Albuquerque, New Mexico; Ellen F. Rosenblum, Attorney General; Paul Garrahan, Attorney-Charge, Natural Resources Division; Oregon Department of Justice; Salem, Oregon; Josh Shapiro, Attorney General; Michael J. Fischer, Chief Deputy Attorney General; Robert A. Reiley, Assistant Director, Department of Environment Protection; Office of the Attorney General, Harrisburg, Pennsylvania; Thomas J. Donovan Jr., Attorney General; Nicholas F. Persampieri, Assistant Attorney General; Office of the Attorney General; Montpelier, Vermont; for Plaintiffs-Appellees.

Susannah Weaver (argued) and Matthew Littleton, Donahue Goldberg Weaver & Littleton, Washington, D.C.; Peter Zalzal and Rachel Fullmer, Environmental Defense Fund, Boulder, Colorado; for Intervenor-Plaintiff-Appellee.

**OPINION**

BUMATAY, Circuit Judge:

On one level this case is about trash. When we toss our food packaging, the core of an apple, or almost any other material, our garbage winds up in one place: municipal solid-waste landfills. Over a thousand of these landfills are littered across the country to store and process household waste. Responsibility for regulating such landfills rests with the Environmental Protection Agency, in cooperation with states. This includes promulgating emissions guidelines—because gases like methane and carbon dioxide are produced as a byproduct of the waste-decomposition process—and issuing plans detailing how those guidelines will be implemented.

EPA promulgated new landfill emissions guidelines in 2016. Doing so set off a series of mandates for states and EPA. First, each state was required to submit a plan on how it would implement the new guidelines. Second, EPA was to approve or disapprove each state plan it received. Finally, for states that failed to submit a plan at all, EPA had to promulgate a federal plan that would govern implementation in those states. The deadline for EPA to comply with its final requirement—issuing the federal plan—was set by regulation for November 30, 2017. But EPA blew this deadline.

Several states sued to force EPA to promulgate its federal plan. While EPA responded to the suit, it also kicked off the rulemaking process to extend its regulatory deadline for issuing a federal plan. While this rulemaking was underway, the district court ruled for the plaintiff states and entered an injunction requiring EPA to promulgate the plan within six months. A few months later, EPA finalized the

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