



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

May 1, 2024

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Ohio, et al. v. EPA, et al., and consolidated applications, Nos. 23A349, 23A350, 23A351, 23A384

Dear Mr. Harris:

On February 21, 2024, this Court held oral argument on the above-captioned applications, which concern various challenges to EPA's Good Neighbor Plan (Plan), a final rule that establishes emissions-control requirements for large industrial polluters in 23 States to address interstate air pollution. EPA promulgated that Plan after concluding, in a separate rulemaking, that each of those States had failed to submit a state plan that complies with applicable statutory requirements. Several States and private parties challenged the state-plan disapproval action and courts of appeals subsequently stayed that action for 12 States, leading EPA to suspend the application of the Plan for those States.

EPA has reached a proposed settlement agreement with one of those parties—Nevada Cement Company, LLC. In accordance with 42 U.S.C. 7413(g), EPA published notice of the proposed settlement agreement for public comment in the Federal Register today. See Proposed Settlement Agreement, Clean Air Act Suit, 89 Fed. Reg. 35,091. The proposed settlement agreement establishes a process and deadlines by which the company would apply for a case-by-case emissions limit to bring it into compliance with the Plan. The proposed settlement agreement also provides for the company and EPA to file a joint motion to lift the judicial stay of the state-plan disapproval in Nevada entered by the U.S. Court of Appeals for the Ninth Circuit. See Nevada Cement Co. v. EPA, No. 23-682 (9th Cir. July 3, 2023).

I would appreciate it if you would circulate this letter to Members of the Court.

Sincerely,

Elizabeth B. Prelogar
Solicitor General

cc: See Attached Service List

SERVICE LIST: 23A349, 23A350, 23A351, 23A384 – Ohio, et al. v. EPA, et al. consolidated cases.

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