

Ninth Circuit Dismisses Lawsuit Seeking Refinery Greenhouse Gas Limits

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On October 17, 2013, the Ninth Circuit Court of Appeals denied a Clean Air Act citizen suit brought by the Sierra Club and the Washington Environmental Council on standing grounds. In [Washington Environmental Council v. Bellon](#), the plaintiffs sought to compel the Washington Department of Ecology and other regional agencies to impose greenhouse gas (“GHG”) emission limits on the five oil refineries operating in Washington state. Specifically, the plaintiffs alleged that the agencies failed to define reasonably available control technology (“RACT”) emission limits for GHGs from the refineries in violation of Washington’s State Implementation Plan.

The court dismissed the appeal on standing grounds. The court assumed that the plaintiffs’ allegations of climate change injuries constituted sufficiently specific facts of immediate and concrete injuries, but found that the plaintiffs had not demonstrated that the agencies’ failure to establish GHG limits had contributed to their climate change injuries. The court differentiated the case from [Massachusetts v. EPA](#), in which the Supreme Court applied a more relaxed standing inquiry to the state of Massachusetts as a sovereign state, because the plaintiffs’ claims did not implicate any procedural right or involve a sovereign state. Also, the court noted that while the GHG emissions from the five oil refineries in Washington state represented 5.9% of emissions in Washington, the plaintiffs had not provided any evidence as to the relevance of this statistic to national or worldwide emissions. In *Massachusetts*, the Supreme Court had observed that GHGs emitted by motor vehicles in the U.S., at 6% of global carbon dioxide emissions, represented a “meaningful contribution” to global GHG concentrations. The court also held there was no evidence that the RACT standards plaintiffs sought would actually curb a significant amount of the GHG emissions that are causing the plaintiffs’ climate change injuries.

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