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# Phosphoric Acid Production Waste/Federal Court Petition for Writ of Mandamus: Center for Biological Diversity Seeks U.S. Environmental Protection Agency Regulation

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The Center for Biological Diversity and other organizations filed a March 10th Petition for Writ of Mandamus (“Petition”) before the United States Court of Appeals for the District of Columbia Circuit asking that the United States Environmental Protection Agency (“EPA”) revisit a 1991 decision exempting phosphoric acid production waste from the federal Resource Conservation and Recovery Act (“RCRA”) hazardous waste regulations.

The other organizations joining the Petition include:

- PEOPLE FOR PROTECTING PEACE RIVER.
- BAYOU CITY WATERKEEPER.
- HEALTHY GULF.
- MANASOTA-88,
- PORTNEUF RESOURCE COUNCIL.
- RISE ST. JAMES LOUISIANA.
- SIERRA CLUB.
- WATERKEEPER ALLIANCE.
- WATERKEEPERS FLORIDA.

(Collectively, “CBD”).

CBD states that several public health, environmental justice, and conservation groups petitioned EPA in 2021 to revisit its 1991 Bevill Determination exempting such waste from RCRA hazardous waste regulations and to promulgate new regulations listing phosphogypsum and process wastewater as hazardous wastes under Subtitle C of RCRA. They further argue that EPA has delayed four years in answering this 2021 Petition. This is argued to be a violation of EPA’s duty under Section 7004 of RCRA and the Administrative Procedure Act (APA) Section 553 to answer the 2021 Petition “within a reasonable time”. Therefore, CBD argues that the Court should order EPA to answer.

EPA has previously exempted phosphogypsum and process wastewater from hazardous waste regulation under the Bevill Amendment to RCRA. Congress had amended RCRA in 1980 with the Bevill Amendment which exempted “special waste” including phosphogypsum, process wastewater, and other mining and

mineral processing waste from RCRA Subtitle C hazardous waste regulation pending an EPA study and determination on whether regulation was warranted.

EPA had published a Bevill Determination in 1991 extending the temporary statutory Bevill exemption.

The Petition outlines factors that CBD believe support the Court granting a Writ of Mandamus mandating EPA action.

A copy of the Petition can be downloaded [here](#).