

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

---

**BIG WEST OIL LLC,**

**Petitioner,**

**v.**

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,**

**Respondent.**

---

**Case No. 19-1197**

**PETITION FOR REVIEW**

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure, Big West Oil LLC (“BWO”) hereby petitions this Court for review of the following final agency action, attached hereto as Attachment A, issued by the United States Environmental Protection Agency on August 9, 2019:

*Decision on 2018 Small Refinery RFS Exemption Petition – Big West Oil*

BWO has filed a petition for review of this same action in the United States Court of Appeals for the Tenth Circuit because it believes that jurisdiction and venue are proper in the Tenth Circuit. BWO is filing this petition as a protective measure because EPA, in another case involving a small refinery located in the Tenth Circuit, has filed a motion to dismiss arguing that the case must be heard in

the D.C. Circuit. *See* EPA’s Motion to Dismiss, *Sinclair Wyo. Ref. Co. v. EPA*, ECF No. 10680004, Case No. 19-9562 (10th Cir. Sept. 19, 2019).

Section 307(b)(1) of the Clean Air Act requires that any final agency action “which is locally or regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit.” 42 U.S.C. § 7607(b)(1). The action in this case applies only to one refinery that is located in Utah and is a wholly-owned subsidiary of a parent company located in Utah. Although BWO believes its petition for review is properly before the Tenth Circuit, the Company is filing this petition for review out of an abundance of caution, as a protective measure, and without waiving any arguments that jurisdiction and venue are proper in the Tenth Circuit.

Date: September 23, 2019

Respectfully submitted,

/s/ Jeffrey R. Holmstead

Jeffrey R. Holmstead

Brittany M. Pemberton

BRACEWELL LLP

2001 M Street N.W.

Suite 900

Washington, D.C. 20036

(202) 828-5800 (telephone)

(202) 857-4812 (facsimile)

Jeff.Holmstead@bracewell.com

Brittany.Pemberton@bracewell.com

*Counsel for Petitioner*

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

---

**BIG WEST OIL LLC** )  
) )  
**Petitioner** )  
) )  
**v.** )  
) )  
**UNITED STATES ENVIRONMENTAL** )  
**PROTECTION AGENCY,** )  
) )  
**Respondent.** )

---

**Case No. 19-1197**

**RULE 26.1 CERTIFICATE OF CORPORATE DISCLOSURE OF  
BIG WEST OIL LLC**

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Big West Oil LLC certifies that it is a Utah limited liability company, and that it is a wholly-owned subsidiary of Big West Holdings LLC, a Utah limited liability company, which in turn is wholly owned by FJ Management Inc., a Utah Corporation. FJ Management Inc. is a privately held corporation with no parent corporation.

Date: September 23, 2019

Respectfully submitted,

/s/ Jeffrey R. Holmstead

Jeffrey R. Holmstead

Brittany M. Pemberton

BRACEWELL LLP

2001 M Street N.W.

Suite 900

Washington, D.C. 20036

(202) 828-5800 (telephone)

(202) 857-4812 (facsimile)

Jeff.Holmstead@bracewell.com

Brittany.Pemberton@bracewell.com

*Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Appellate Procedure 15(c), I hereby certify that I have this day caused the foregoing Petition for Review and Rule 26.1 Corporate Disclosure Statement to be delivered by first-class mail, postage prepaid, on each of the following:

Hon. Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

Correspondence Control Unit  
Office of General Counsel (2311)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20560

Mr. Jeffrey Bossert Clark  
Assistant Attorney General  
U.S. Department of Justice  
Law and Policy Section  
Environment and Natural Resources  
Division  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Mr. Matthew Z. Leopold  
General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

The Honorable William P. Barr  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Date: September 23, 2019

Respectfully submitted,

*/s/ Jeffrey R. Holmstead*

\_\_\_\_\_  
Jeffrey R. Holmstead

**19-1197**  
**ATTACHMENT A**

**From:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Sent:** Friday, August 9, 2019 4:00 PM  
**To:** Jalyn Rowser <[jalyn.rowser@bigwestoil.com](mailto:jalyn.rowser@bigwestoil.com)>

**Subject:** EPA decision on 2018 small refinery RFS exemption petition (CONTAINS CONFIDENTIAL BUSINESS INFORMATION) - Big West Oil

The purpose of this email is to notify you that EPA has evaluated your petition for a one-year extension for 2018 of the small refinery exemption from the requirements of the renewable fuel standard (RFS) program for the Big West Oil refinery. Based on the information submitted in your petition, EPA's consultation with the Department of Energy (DOE), and the recommendation DOE provided, EPA Acting Assistant Administrator for Air and Radiation Anne Idsal has decided to deny your request for exemption for 2018. This means that from January 1, 2018, through December 31, 2018, your refinery's gasoline and diesel production remain subject to the percentage standards of 40 CFR 80.1405, and remains subject to the requirements of an obligated party for fuel produced at the refinery during that period.

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623

\*\*\*\*\*