

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

PAWNEE NATION OF
OKLAHOMA,

Petitioner,

v.

ANDREW WHEELER, in his
official capacity as U.S.
Environmental Protection Agency
Administrator, and U.S.
ENVIRONMENTAL
PROTECTION AGENCY,

Respondents.

Case No. _____

PROTECTIVE PETITION FOR REVIEW

Pursuant to Federal Rule of Appellate Procedure 15, Petitioner Pawnee Nation of Oklahoma files this protective petition for review of the U.S. Environmental Protection Agency's (EPA) October 1, 2020 action approving the State of Oklahoma's request under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005, attached as Exhibit A.

Petitioner is still evaluating EPA's October 1 decision, and files this petition as a protective matter to preserve its right to judicial review.¹

¹ Petitioner anticipates filing a motion to stay proceedings in the near future to conserve the resources of the parties and the court while decisions are made on how to proceed.

Respectfully submitted this November 27, 2020.

/s/ Michael S. Freeman

Michael S. Freeman
Rumela Roy
EARTHJUSTICE
633 17th Street, Suite 1600
Denver, CO 80202
Telephone: (303) 996-9615
Facsimile: (303) 623-8083
mfreeman@earthjustice.org
rroy@earthjustice.org

*Attorneys for Petitioner Pawnee Nation of
Oklahoma*

DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1(a), the Pawnee Nation of Oklahoma states that it is a tribal government. The Pawnee Nation of Oklahoma does not have a parent corporation, and no publicly held corporation holds 10% or more of its stock.

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that:

(1) if required to file additional hard copies, the ECF submission is an exact copy of those documents;

(2) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Sophos Core Agent 2.10.7, Endpoint Advanced 10.8.9.2, Intercept X 2.0.18, as of November 27, 2020, and according to the program are free of viruses.

/s/ Michael S. Freeman
Michael S. Freeman

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **Protective Petition for Review** by sending a copy via First Class Mail to each of the following addresses on this 27th day of November, 2020:

Administrator Andrew Wheeler
Office of the Administrator
EPA Headquarters 1101A
United States Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

J. Kevin Stitt
Governor, State of Oklahoma
Oklahoma State Capitol
2300 N Lincoln Blvd.
Oklahoma City, Oklahoma 73105

/s/ Michael S. Freeman
Michael S. Freeman

LIST OF RESPONDENTS

Pursuant to 10th Circuit Rule 15.2, Petitioner lists the following respondents requiring service of the Protective Petition for Review:

Administrator Andrew Wheeler
Office of the Administrator
EPA Headquarters 1101A
United States Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Petitioner has served the foregoing Protective Petition for Review to each of the above addresses.

/s/ Michael S. Freeman
Michael S. Freeman