

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

UTE INDIAN TRIBE OF THE UINTAH
AND OURAY RESERVATION, a federally
recognized Indian Tribe,

Petitioner,

v.

KC BECKER, REGIONAL
ADMINISTRATOR, REGION 8, U.S.
ENVIRONMENTAL PROTECTION
AGENCY, in their official capacity; and LEE
ZELDIN, ADMINISTRATOR, U.S.
ENVIRONMENTAL PROTECTION
AGENCY, in his official capacity,

Respondents.

Case No. 25-1067

**PROTECTIVE PETITION FOR
REVIEW**

Under section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), the Administrative Procedure Act, 5 U.S.C. § 702, Federal Rule of Appellate Procedure 15(a), and D.C. Circuit Rule 15, as a protective matter only to preserve its right to petition for judicial review, the Ute Indian Tribe of the Uintah and Ouray Reservation (“Tribe”) petitions this Court for review of the final rule of KC Becker, Regional Administrator, Region 8, of the United States Environmental Protection Agency (“EPA”) titled “Denial of request for Attainment Date Extension, Finding of Failure to Attain, and Reclassification of an Area in Utah as Moderate for the 2015 Ozone National Ambient Air Quality Standards,” published in the Federal Register at 89 Fed. Reg. 101483 (December 16, 2024)(EPA Docket Number EPA-R08-OAR-2024-0001). A copy of the relevant rule is attached to this petition.

Pursuant to 42 U.S.C. § 7607(b)(1), a petition for review is reviewable “in the United States Court of Appeals for the appropriate circuit” if the final rule is “locally or regionally applicable”. In the final rule, EPA determined that the Uinta Basin, a distinct region entirely within the boundaries of the State of Utah, did not attain the 2015 ozone National Ambient Air Quality Standards by the specified attainment date and reclassified the area from marginal to moderate nonattainment. 89 C.F.R. 101483. The final rule only applies locally to the Uinta Basin within the State of Utah and does not apply to any other locations in the United States.

For venue to be proper in this Court, the EPA must make findings that the final rule is “based on a determination of nationwide scope or effect.” 42 U.S.C. § 7607(b)(1). The EPA has not made any such findings. Therefore, the Tribe’s petition for judicial review belongs in the 10th Circuit Court of Appeals. The Tribe has filed a petition for review in the 10th Circuit, which is currently pending.

The Tribe files this Protective Petition in this Court as a protective measure to preserve the Tribe’s right to judicial review should venue be determined improper in the 10th Circuit.

Dated: February 14, 2025

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CERTIFICATE OF SERVICE

I certify that the Respondents were served via U.S. Certified Mail the foregoing **PROTECTIVE PETITION FOR REVIEW** are as follows:

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