United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-1177 **September Term, 2022**

EPA-87FR36848

Filed On: January 23, 2023

American Chemistry Council,

Petitioner

v.

Environmental Protection Agency,

Respondent

BEFORE: Millett, Pillard, and Pan, Circuit Judges

O R D E R

Upon consideration of the motion to dismiss, the notice to join that motion, the opposition to the motion and the supplements thereto, and the reply; the motion to intervene, the oppositions thereto, and the reply; and the motion to exceed the word limit for the reply in support of the motion to intervene, it is

ORDERED that the motion to dismiss be granted. Petitioner has failed to carry its burden of establishing standing. See Clapper v. Amnesty Int'l USA, 568 U.S. 398, 411–12 (2013). Despite relying on associational standing, petitioner has neither alleged that the challenged conduct affects all of its members nor identified any specific member who would have standing to pursue this action. See Summers v. Earth Island Inst., 555 U.S. 488, 498–99 (2009). Although petitioner has pointed to alleged harm facing an indirect subsidiary of one of its members, it has not shown that the member itself is suffering any injury or would have standing to sue based on the subsidiary's alleged injury. See Franchise Tax Bd. of Cal. v. Alcan Aluminium Ltd., 493 U.S. 331, 336 (1990). Nor has petitioner demonstrated a "substantial probability" that the agency actions challenged here caused the litigation costs that some of its members allegedly face in having to defend against a separate lawsuit. Sierra Club v. E.P.A., 292 F.3d 895, 898–99, 902 (D.C. Cir. 2002) (quoting Am. Petroleum Inst. v. E.P.A., 216 F.3d 50, 63 (D.C. Cir. 2000)); see Grocery Mfrs. Ass'n v. E.P.A., 693 F.3d 169, 175–76 (D.C. Cir. 2012). It is

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-1177 **September Term, 2022**

FURTHER ORDERED that the motion to intervene and the motion to exceed the word limit for the reply in support of that motion be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Tatiana Magruder
Deputy Clerk