

**United States Court of Appeals**

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 19-1196**

**September Term, 2021**

**EPA-08/09/2019 Decision**

**Filed On: December 8, 2021**

Sinclair Wyoming Refining Company,

Petitioner

v.

Environmental Protection Agency,

Respondent

-----  
Consolidated with 19-1197

**No. 19-1216**

Kern Oil & Refining Co.,

Petitioner

v.

Environmental Protection Agency,

Respondent

-----  
Producers of Renewables United for Integrity  
Truth and Transparency,  
Intervenor

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 19-1196**

**September Term, 2021**

---

**No. 19-1220**

Renewable Fuels Association, et al.,

Petitioners

v.

Environmental Protection Agency,

Respondent

-----  
Alon Refining Krotz Springs, Inc., et al.,  
Intervenors

---

**No. 20-1099**

Wynnewood Refining Company, LLC,

Petitioner

v.

Environmental Protection Agency,

Respondent

-----  
Producers of Renewables United for Integrity  
Truth and Transparency,  
Intervenor

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 19-1196****September Term, 2021**

**BEFORE:** Millett, Wilkins, and Jackson, Circuit Judges

**ORDER**

Upon consideration of EPA's motion for voluntary remand without vacatur, the responses thereto, and the reply, it is

**ORDERED** that the motion for voluntary remand without vacatur be granted and that EPA issue new decisions concerning the matters at issue in these cases within 90 days of the date of this order or within 90 days of EPA's receipt of any additional information needed to issue such decisions, but in any event no more than 120 days from the date of this order. Regardless of whether the Tenth Circuit's alternative holdings in Renewable Fuels Association v. United States EPA, 948 F.3d 1206 (10th Cir. 2020), survive following the Supreme Court's decision in HollyFrontier Cheyenne Refining, LLC v. Renewable Fuels Association, 141 S. Ct. 2172 (2021), remand is warranted so that EPA may reconsider its positions in light of the principles behind those holdings and consider providing a more robust explanation for the decisions that remain undisturbed after reconsideration. See, e.g., Utility Solid Waste Activities Group v. EPA, 901 F.3d 414, 436 (D.C. Cir. 2018) (per curiam); Ethyl Corp. v. Browner, 989 F.2d 522, 534 (D.C. Cir. 1993). Vacatur is not warranted because it would be unduly disruptive and EPA may be able to explain its rationale on remand. See Allied-Signal, Inc. v. United States Nuclear Regulatory Commission, 988 F.2d 146, 150-51 (D.C. Cir. 1993). However, a time limit is warranted in light of the 90-day statutory deadline and EPA's delay. See 42 U.S.C. § 7545(o)(9)(B)(iii); Kern Oil & Refining Co. v. United States EPA, 840 Fed. Appx. 188, 188 (9th Cir. 2021); Clean Wisconsin v. EPA, 964 F.3d 1145, 1175-76 (D.C. Cir. 2020) (per curiam).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandates in these cases 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**