

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

FOOD & WATER WATCH,)
RECIRCULATING FARMS COALITION,)
CENTER FOR FOOD SAFETY, SIERRA)
CLUB, HEALTHY GULF, SUNCOAST)
WATERKEEPER, and TAMPA BAY)
WATERKEEPER,)

Petitioners,)

22-1253

v.)

U.S. ENVIRONMENTAL PROTECTION)
AGENCY, and U.S. ENVIRONMENTAL)
PROTECTION AGENCY)
ENVIRONMENTAL APPEALS BOARD,)

Respondents.)

PETITION FOR REVIEW

Pursuant to Fed. R. App. P. 15, D.C. Cir. Rule 15, section 509(b)(1)(F) of the Clean Water Act, 33 U.S.C. § 1369(b)(1)(F), and the Administrative Procedure Act, 5 U.S.C. § 706, Food & Water Watch, Recirculating Farms Coalition, Center for Food Safety, Sierra Club, Healthy Gulf, Suncoast Waterkeeper, and Tampa Bay Waterkeeper (collectively, “Petitioners”) hereby petition this Court for review of:

(1) the U.S. Environmental Protection Agency’s (“EPA”) September 2020 issuance, pursuant to 33 U.S.C. § 1342, of National Pollutant Discharge

Elimination System (“NPDES”) Permit No. FL0A00001 to Ocean Era, Inc. for an offshore aquaculture facility to be constructed and operated in federal waters of the

Gulf of Mexico (“Permit,” attached as Exhibit 1); (2) EPA’s Order Remanding in Part and Denying Review in Part, issued on May 6, 2022 by EPA’s Environmental Appeals Board in NPDES Appeal No. 20-09, *see In re Ocean Era, Inc.*, 18 E.A.D. 678 EAB 2022) (attached as Exhibit 2); and (3) EPA’s June 8, 2022 final permit decision (attached as Exhibit 3), which became effective on that date. *See* 40 C.F.R. § 23.2 (providing that where the EPA explicitly provides an approval date on a NPDES permit, the decision becomes final on the specified date).

The challenged actions—which, as appropriate, Petitioners timely appealed to EPA’s Environmental Appeals Board—and EPA’s associated failure to comply with federal law injure Petitioners and their members, by, *inter alia*, permitting water pollution discharges and negatively affecting waters used by Petitioners’ members for recreation and other purposes without a full, legally-compliant environmental review of those impacts.

Respectfully submitted this 27th day of September, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that, in accordance with Fed. R. App. P. 15(c)(1) and 25(c)(2), on September 27, 2022, I served copies of the foregoing document and its attachments on the following parties admitted to participate in the agency proceedings by electronic mail (with written consent):

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Dated this 27th day of September, 2022

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