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Legal Victory Requires EPA to Reconsider Outdated Industrial Water Pollution Standards

SAN FRANCISCO— The 9th Circuit Court of Appeals [ruled](#) today that the Environmental Protection Agency acted unlawfully in declining to update water pollution control standards for seven major industries. The industries include petroleum refineries, inorganic and organic chemical manufacturers, and factories that manufacture plastics, fertilizer, pesticides and nonferrous metals.

The court agreed with conservation groups that the Clean Water Act requires the EPA to consider technological advancements in controlling water pollution when the agency updates its pollution reduction standards, known as effluent limitation guidelines.

The lawsuit [was filed](#) by the Environmental Integrity Project, the Center for Biological Diversity, Clean Water Action, Waterkeeper Alliance, Food & Water Watch, Environment America, Bayou City Waterkeeper, Black Warrior Riverkeeper, Healthy Gulf, San Antonio Bay Estuarine Waterkeeper, San Francisco Baykeeper, the Surfrider Foundation and Tennessee Riverkeeper. The conservation groups were represented by in-house counsel with the Environmental Integrity Project and Center for Biological Diversity.

“EPA has ignored the Clean Water Act for decades and allowed the petrochemical industry to dump its dirty wastewater into our public waterways without modern pollution controls,” said Jen Duggan, executive director at the Environmental Integrity Project. “But this decision makes clear that EPA must act to limit the toxic stew of pollutants released by refineries and the plants that make chemicals and plastics, and protect downstream communities and the health of our rivers, streams and lakes.”

The EPA has not updated 80% of the 59 categories of water-pollution technology standards in more than 30 years. These outdated standards mean more water pollution is being released into U.S. waters than allowed under the law despite the availability of modern pollution control technology.

“This is a significant victory for clean water, public health and aquatic wildlife, but it is also a beacon of hope amid the Trump administration’s efforts to dismantle our key environmental protections,” said Hannah Connor, a senior attorney at the Center for Biological Diversity. “The EPA must now take action to ratchet down dangerous mercury, chloride and plastics pollution instead of giving a free pass to polluters. It’s ludicrous that so many polluters are using pollution control technologies from the Reagan era before personal computers and email existed.”

The court additionally determined that the EPA acted arbitrarily when it failed to consider the role that stormwater runoff plays in pollution from the plastics industry. The ruling also found that the existing standards for reducing plastic pollution are significantly less strict than the scientific information

demonstrated they could be. As the plastics industry has continued to ramp up plastic pollution in this country, an estimated 8 million tons of plastic enters our oceans every year, and it's expected to outweigh all the fish in the sea by 2050.

The EPA's failure to update these limits has real-world consequences for downstream communities and the environment. A recent [analysis](#) by the Environmental Integrity Project found that plastics manufacturers, for example, release pollutants that are completely unregulated by the EPA, including contaminants that scientists have identified as carcinogenic or otherwise harmful to human health.

These pollutants include dioxins, which are known cancer-causing agents that are highly toxic and persist in the environment, and 1,4-dioxane, a likely carcinogen that EPA scientists recently indicated is threatening drinking water sources. Nitrogen and phosphorus pollution discharged from plastics and petrochemical plants — which cause algal blooms and fish-killing low-oxygen zones — are also not currently controlled by the EPA's water pollution control standards.

“We are proud to be a part of this signature win for public health and the environment,” said Eva Dillard, Black Warrior Riverkeeper's staff attorney. “Thanks to this ruling, EPA will have to modernize badly outdated pollution limits for industry. Revising these guidelines to reflect best technology and controls is especially critical for Alabama because it will force our state to write better, more protective discharge permits to keep harmful pollution out of our waterways.”

For a photograph of the Black Warrior River at sunset near Moundville, Alabama by Nelson Brooke, Black Warrior Riverkeeper, [click here](#).

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[Black Warrior Riverkeeper](#)'s mission is to protect and restore the Black Warrior River and its tributaries. The citizen-based nonprofit organization promotes clean water for the sake of public health, recreation and wildlife habitat throughout the Black Warrior River watershed.

[The Environmental Integrity Project](#) is America's environmental watchdog. We are a nonprofit organization dedicated to protecting public health and our natural world by holding polluters and government agencies accountable under the law. We advocate for tough but fair environmental standards and empower communities fighting for clean air and clean water.

[The Center for Biological Diversity](#) is a national, nonprofit conservation organization with more than 1.8 million members and online activists dedicated to the protection of endangered species and wild places.