

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-1251**September Term 2008****EPA-DC0021199****Filed On:** December 12, 2008

DC Water and Sewer Authority,

Petitioner

v.

Stephen L. Johnson, Administrator, EPA, et
al.,

Respondents

BEFORE: Henderson, Brown, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the motions to intervene by Chesapeake Bay Foundation and by Sierra Club and Friends of the Earth, the responses thereto, and the replies; the joint motion to establish an extended briefing schedule; and the motion to dismiss, the opposition thereto, and the reply, it is

ORDERED that the motion to dismiss be granted. Because the challenged nitrogen limit cannot be enforced until the Regional Administrator establishes a compliance schedule, the order under review lacks finality. See Bennett v. Spear, 520 U.S. 154, 178 (1997) (holding that “the action must be one by which ‘rights or obligations have been determined,’ or from which ‘legal consequences will flow’” to meet the second prong of the finality test). It is

FURTHER ORDERED that the motions to intervene and the joint motion to establish an extended briefing schedule 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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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