

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 10-60961

STATE OF TEXAS; RICK PERRY, Governor of Texas; GREG ABBOTT,
Attorney General of Texas; TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY; TEXAS DEPARTMENT OF AGRICULTURE; TEXAS RAILROAD
COMMISSION; TEXAS GENERAL LAND OFFICE; TEXAS PUBLIC
UTILITY COMMISSIONER BARRY SMITHERMAN; TEXAS PUBLIC
UTILITY COMMISSIONER DONNA NELSON; TEXAS PUBLIC UTILITY
COMMISSIONER KENNETH ANDERSON,

Petitioners

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent

Petition for Review of an Order of the
Environmental Protection Administration

Before HIGGINBOTHAM, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:

Petitioners have filed a motion for stay pending appeal requesting a ruling by January 2, 2011. Upon consideration of the motion for stay, the response thereto filed by Respondents, and Petitioners' reply to such response, IT IS ORDERED that the motion for stay pending the disposition of the petition for review is DENIED. Petitioners have not met their burden to satisfy the legal standards required to allow a stay pending appeal.

The Respondent's Motion for dismissal or in the alternative to transfer to the D.C. Circuit remains before the panel. The panel reserves its right to request further briefing on said motion.