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Citizen Suit Enforcement/Clean Air Act: Federal Court Addresses U.S. Department of Justice Request to Intervene/Dismiss NAACP's Challenge to Southaven, MS Data Center

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The United States District Court for the Northern District of Mississippi addressed in an October 19th Opinion and Order ("Opinion") a request by the United States Department of Justice ("DOJ") to intervene as a Plaintiff and dismiss the citizen suit action filed by the National Association for the Advancement of Colored People and the Mississippi State Conference of the NAACP (collectively, "NAACP") requesting a preliminary injunction against x.AI and MZX Tech LLC (collectively, "x.AI"). See *NAACP and NAACP MISSISSIPPI STATE CONFERENCE, v. X.AI and MZX TECH LLC*. Case No. 3:26-cv-00074-DMB-JMV.

The NAACP previously filed a complaint alleging that between August and December of 2025, x.AI installed and began operating 27 gas turbines (Colossus II Data Center) in Southaven, Mississippi.

The data center is stated to power the company's chat bot (GROK). It is alleged to have begun operating without a permit.

NAACP asked that the United States District Court determine that x.AI violated the Clean Air Act and require it to:

- Cease operating unpermitted turbines.
- Install best available control technology.
- Pay financial penalties.

DOJ filed a motion opposing the NAACP filing and alleged:

- The United States is entitled to intervene in this Clean Air Act citizen suit.
- Consistent with the role of executive power under Article 2 of the Constitution, the United States' right to intervene includes a right to dismiss this entire enforcement action.
- The Clean Air Act does not authorize citizen-enforcement actions that seek relief the government enforcers choose to forego
- Dismissal is required to avoid serious constitutional questions arising from the alternative interpretation of the Clean Air Act.

DOJ subsequently filed a motion arguing on appeal that absence of a written ruling by the federal District Court constituted constructive denial of its amended motion for intervention and dismissal. In other

words, despite the federal District Court not entering an order denying the motion for intervention, DOJ argued that this was a “constructive denial” enabling it to file the appeal before the United States Court of Appeals for the Fifth Circuit.

The federal District Court in its October 19th Opinion stated in part:

... Because the Administrator of the EPA is entitled to intervene in Clean Air Act citizen suits but nothing in the Clean Air Act allows the Administrator to unilaterally dismiss a citizen suit upon intervention, the United States will be allowed to intervene but will not be allowed to dismiss this case.

It further held that the United States’ notice of appeal was premature and stated:

... because contrary to the United States’ assertion that it is appealing the constructive denial of its motion to intervene, this order grants the United States’ intervention request, the United States’ Stay Motion (which asks the Court to stay this litigation in its entirety pending its appeal) is denied as moot.

A copy of the Opinion can be found [here](#).