

No. 25-13759

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**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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HUNT REFINING CO.,

*Petitioner,*

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

*Respondent.*

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On Petition for Review of Final Agency Action  
of the Environmental Protection Agency

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**MOTION OF GROWTH ENERGY FOR LEAVE  
TO FILE RESPONSE TO JURISDICTIONAL QUESTION**

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**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 27-1, the undersigned counsel of record certifies that the persons identified in the Certificate of Interested Persons attached to respondent's response to the Court's Jurisdictional Question, ECF #28, are known to have an interest in the outcome of this case.

Dated: December 17, 2025

/s/ David M. Lehn

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## INTRODUCTION

Hunt Refining Co. has petitioned this Court for review of EPA’s *August 2025 Decisions on Petitions for RFS Small Refinery Exemptions*, EPA-420-R-25-010 (“2025 SRE Decisions”), through which EPA adjudicated a petition filed by Hunt for a small-refinery exemption (“SRE”) from its obligations under the Renewable Fuel Standard (“RFS”) for 2024. *See* Petition for Review, ECF #1-2. Growth Energy moved to intervene in support of EPA given that the disposition of Hunt’s SRE petition will affect Growth Energy’s members’ competitive position in the transportation-fuels market and the demand for its members’ renewable fuel. *See* ECF #15. That motion remains pending.

Separately, the Court directed the parties to submit briefs on two threshold questions: (1) whether Hunt “was required to file its petition for review in the United States Court of Appeals for the District of Columbia Circuit”; and (2) “whether appellate jurisdiction is implicated.” ECF #2-2. The parties filed their response briefs on December 5, 2025. *See* ECF ##27-28.

Growth Energy has a strong interest in where this case is litigated, and accordingly now moves for leave to submit a brief presenting limited but important additional points showing that the D.C. Circuit is the only court that may review EPA’s decision on Hunt’s SRE petition. The proposed brief is attached to this motion.

Hunt opposes Growth Energy’s motion. EPA takes no position on this motion at this time.

## ARGUMENT

I. Growth Energy has a strong interest in whether the D.C. Circuit is the exclusive forum for hearing Hunt’s petition for review. In prior litigation over EPA’s 2022 SRE decisions, the Fifth Circuit held that it was the proper forum for hearing various refineries’ challenges to those decisions, *Calumet Shreveport Refining, L.L.C. v. EPA*, 86 F.4th 1121 (5th Cir. 2023), contrary to this Court’s ruling that the D.C. Circuit was the exclusive forum for hearing Hunt’s challenge to EPA’s 2022 decision on its SRE petition, *Hunt Refining Co. v. EPA*, 90 F.4th 1107 (11th Cir. 2024). Growth Energy, which was an intervenor in the Fifth Circuit case, had argued that the D.C. Circuit was the exclusive forum. Accordingly, after the Fifth Circuit’s contrary ruling, Growth Energy petitioned the Supreme Court for certiorari to resolve the question. *See Growth Energy v. Calumet Shreveport Refining LLC*, No. 23-1230 (U.S.). The Supreme Court agreed with Growth Energy and held that the D.C. Circuit was the exclusive forum because the challenged EPA decisions were “based on ... determination[s] of nationwide scope or effect.” 42 U.S.C. § 7607(b)(1); *see EPA v. Calumet Shreveport Refining LLC*, 605 U.S. 627, 145 S. Ct. 1735 (2025).

Growth Energy petitioned for certiorari in *Calumet* because of its strong interest in where SRE cases are litigated. As a regular participant in lawsuits involving SREs, *see* ECF #15 at 11, Growth Energy prefers centralized review of SRE actions in the D.C. Circuit to avoid expensive duplicative litigation and inconsistent substantive SRE standards. Uniformity engenders “the market certainty so critical to the long term success of the Renewable Fuel Program” by, among other things, enabling Growth Energy’s members to plan for future demand more reliably. *Americans for Clean Energy v. EPA*, 864 F.3d 691, 715 (D.C. Cir. 2017).

Now, in this case, it is important to Growth Energy to be able to explain why the favorable ruling it secured from the Supreme Court in *Calumet* compels dismissal (or transfer) of this case in favor of the D.C. Circuit, to ensure that the efficiency and uniformity promoted by the Supreme Court’s decision are achieved.

II. This motion and accompanying proposed brief are timely. Growth Energy has not yet obtained access to any Hunt-specific materials in the administrative record. In fact, until the parties filed their response briefs, Growth Energy did not even know the status of Hunt’s SRE petition, i.e., whether it was denied fully, denied partially, or granted with expired RINs returned. *See* ECF #15 at 8. That lack of information hindered Growth Energy’s ability to anticipate what arguments Hunt would make in its own brief or to develop arguments targeted to

Hunt's case. Consequently, Growth Energy was wary of burdening the Court with a brief that duplicated points in EPA's brief without addressing Hunt's circumstances.

Having now seen the parties' response briefs, however, Growth Energy is able to focus its own brief on key points that respond directly to Hunt's arguments without excessively duplicating EPA's arguments.

### **CONCLUSION**

For the foregoing reasons, the Court should grant Growth Energy's motion for leave to file the attached proposed response brief on the jurisdictional question.

Respectfully submitted,

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December 17, 2025

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the undersigned hereby certifies:

1. This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 749 words, excluding the exempted portions, as provided in Federal Rule of Appellate Procedure 32(f). As permitted by Federal Rule of Appellate Procedure 32(g)(1), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

2. This motion complies with the typeface and type style requirements of Federal Rule of Appellate Procedure 27(a)(5)-(6) because it was prepared in proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

/s/ David M. Lehn

DAVID M. LEHN

December 17, 2025

**CERTIFICATE OF SERVICE**

I certify that on this day, I caused the foregoing to be served on all parties through the Court's CM/ECF system.

/s/ David M. Lehn

DAVID M. LEHN

December 17, 2025