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EPA Dodges Texas Farmers' PFAS Contamination Lawsuit

By **Juan-Carlos Rodriguez**

Law360 (September 29, 2025, 8:59 PM EDT) -- A Washington, D.C., federal judge on Monday tossed Texas farmers and ranchers' lawsuit alleging that the U.S. Environmental Protection Agency failed to stop "forever chemicals" from contaminating their farmland and that they've suffered medical problems from the exposure.

The **suit claims** that the EPA had a duty under the Clean Water Act to identify toxic pollutants in biosolids and adopt appropriate regulations. Biosolids are a type of sludge produced through municipal and industrial wastewater treatment that is often used by farmers and ranchers to fertilize their land. But U.S. District Judge Dabney Friedrich said the EPA didn't violate the law.

"Although the plain language of the CWA imposes a non-discretionary duty on EPA to review its regulations on a biennial basis, it does not mandate that EPA also identify and regulate sewage-sludge pollutants within the same time frame," Judge Friedrich said in **an order**. "And neither the biennial report nor EPA's failure to list pollutants in that report constitutes a final agency action subject to [Administrative Procedure Act] review."

The farmers and ranchers alleged that when the biosolids contain perfluoroalkyl and polyfluoroalkyl substances, also known as PFAS, those chemicals leech into the soil and groundwater and are absorbed by plants that are consumed by people and animals.

They argued that the CWA does, in fact, direct the agency to produce its biennial report in order to discover new toxic substances and requires the agency to produce regulations on identified toxins nine months later. And they said that the agency failed to identify several PFAS substances in its most recent biennial report, even though available information shows the compounds are present in the sludge at harmful levels.

Judge Friedrich found that the CWA requires the EPA to review its "existing regulations" to facilitate the subsequent identification and regulation of pollutants that may adversely affect public health or the environment.

"Given this sequence, the statute's biennial deadline applies only to the 'shall review' command, and not to any subsequent identification or regulation that may result from that," the judge said.

And as to the plaintiffs' claims that the EPA was required under the APA to list certain PFAS in its biennial report was arbitrary and capricious, the judge again sided with the agency.

"The plaintiffs ... fail to show that either the biennial report or EPA's failure to list certain PFAS in that report have any legal consequences that establish the finality required for APA review," the judge said.

Laura Dumais of Public Employees for Environmental Responsibility, who represents the plaintiffs, criticized the court's decision.

"The decision is a tragedy for farmers, ranchers, and consumers across the nation, but we are evaluating options, and the fight against PFAS in sewage sludge is far from over," Dumais told Law360 on Monday.

Amanda Aspatore, general counsel for the National Association of Clean Water Act Agencies, which intervened in the case on behalf of the EPA, praised the court's decision.

"NACWA intervened in the case on behalf of its public clean water utility members because of the importance of science-based PFAS regulations to cities nationwide," Aspatore said in a statement Monday. "Today's ruling will help ensure that biosolids regulations will continue to be based on well-established Clean Water Act regulatory processes that provide for thorough analysis and public participation. Those processes — not piecemeal lawsuits initiated by private parties — are what will result in sound PFAS regulations and workable PFAS solutions."

The EPA on Monday said it's reviewing the decision.

The plaintiffs are represented by Laura Dumais and Paula Dinerstein of Public Employees for Environmental Responsibility.

The EPA is represented by the U.S. Department of Justice's Environment & Natural Resources Division.

The National Association of Clean Water Act Agencies is represented by James B. Slaughter, Allyn L. Stern and Thomas P. Kolkin of Beveridge & Diamond PC and its own Amanda Aspatore.

The case is Farmer et al. v. U.S. Environmental Protection Agency et al., number 1:24-cv-01654, in the U.S. District Court for the District of Columbia.

--Editing by Patrick Reagan.

Update: This article has been updated with comment from the parties.

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