IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

)
ENVIRONMENTAL INTEGRITY PROJECT,)
NATURAL RESOURCES DEFENSE COUNCIL,)
EARTHWORKS,	
CENTER FOR HEALTH, ENVIRONMENT	
AND JUSTICE,	
WEST VIRGINIA CITIZEN ACTION GROUP	
D/B/A WEST VIRGINIA SURFACE OWNERS'	
RIGHTS ORGANIZATION,	
RESPONSIBLE DRILLING ALLIANCE, and	
SAN JUAN CITIZENS ALLIANCE,	
Plaintiffs,	Civil Action No. 1:16-cv-00842-JDB
V.	
ANDREW WHEELER, in his official capacity as)
Administrator, United States Environmental)
Protection Agency,)
Defendant.	

MOTION TO TERMINATE CONSENT DECREE

Defendant Andrew Wheeler, in his official capacity as Administrator, United States Environmental Protection Agency (EPA), moves to terminate the Consent Decree entered by the Court in this matter, ECF No. 33 (Dec. 28, 2016). Paragraph 10 of the Consent Decree affords Plaintiffs twenty days to respond to EPA's motion to terminate. But under Local Rule 7(m), undersigned counsel has conferred with counsel for Plaintiffs and is authorized to represent that Plaintiffs do not plan to respond to the motion and do not oppose the relief that EPA requests.

Under Paragraph 10 of the Consent Decree, the Court retains jurisdiction to enforce the Decree. But after EPA has satisfied its obligations under Paragraphs 5 through 8 of the Consent Decree and after Plaintiffs' claim for costs of litigation has been resolved, the Consent Decree

"shall terminate and the action shall be dismissed with prejudice." Consent Decree ¶ 10. On April 23, 2019, EPA issued a letter with a separate supporting document that fulfilled its obligations under Paragraphs 5 and 7 of the Consent Decree. *See* Exhibit 1. Since EPA determined in the April 23 letter that revisions to the relevant regulations and state plan guidelines were not necessary at this time, EPA has no obligations under Paragraphs 6 and 8 of the Consent Decree. Finally, EPA and Plaintiffs previously settled the Plaintiffs' claim for costs of litigation. Having fulfilled its obligations under Paragraphs 5 through 8 of the Consent Decree, EPA now requests that the Court terminate the Consent Decree and dismiss the action with prejudice.

Accordingly, EPA requests that the Court enter an order terminating the Consent Decree and dismissing this action with prejudice.

Dated: May 20, 2019 By: <u>/s/ Justin D. Heminger</u>

JUSTIN D. HEMINGER D.C. Bar No. 974809 U.S. Department of Justice Appellate Section 950 Pennsylvania Avenue, NW Washington, D.C. 20530-0001 Telephone: (202) 514-5442 Justin.Heminger@usdoj.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2019, I filed the foregoing using the Court's CM/ECF system, which will electronically serve all counsel of record registered to use the CM/ECF system.

/s/ Justin D. Heminger

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Defendant.	
)

[PROPOSED] ORDER

Upon consideration of the unopposed Motion to Terminate Consent Decree filed by Defendant Andrew Wheeler, Administrator, United States Environmental Protection Agency (EPA), the Court grants the Motion.

The Consent Decree entered by the Court in this matter, ECF No. 33 (Dec. 28, 2016) is terminated, and this action is dismissed with prejudice.

SO ORDERED.

The Honorable John D. Bates
United States District Judge