

HUBERT T. LEE
NY Bar No. 4992145
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
150 M St. NE, Rm 4.1116
Washington, DC 20002
(202) 514-1806 (phone); (202) 514-8865 (fax)
Hubert.lee@usdoj.gov

SONYA J. SHEA
Cal. Bar No. 305917
sonya.shea@usdoj.gov
U.S. Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
(202) 514-2741

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

OREGON CATTLEMEN'S
ASSOCIATION,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Defendants.

No. 3:19-cv-00564-AC

**STATUS REPORT AND STIPULATED
MOTION TO FURTHER EXTEND STAY;
[PROPOSED] ORDER**

Defendants United States Environmental Protection Agency (“EPA”), EPA Administrator Michael Regan, United States Army Corps of Engineers, and Acting Assistant Secretary of the Army for Civil Works, Jaime Pinkham (“Defendants” or “Agencies”);¹ Plaintiff Oregon Cattlemen’s Association, and Defendant-Intervenor Columbia Riverkeeper (collectively, the Parties), jointly provide the following status report. *See* Dkt. No. 113.²

The Parties further move to extend the stay of this proceeding by one month, extending the end of the stay from June 2 to July 1, 2021. The Parties have good cause for this request:

1. On February 2, 2021, the Court held a telephonic status conference, where the Court concluded by staying this proceeding until June 2, 2021. Dkt. No. 113. The Court instructed Plaintiff to file “Status Reports no later than 3/1/2021 and 5/28/2021.” *Id.*

2. On February 26, 2021, Plaintiff filed its first status report. Dkt. No. 113. Plaintiff’s status report noted that the “The Navigable Waters Protection Rule: Definition of ‘Waters of the United States,’” 85 Fed. Reg. 22,250 (Apr. 21, 2020) (“NWPR”), which is one of the regulations being challenged by Plaintiff, may be subject to review by the Agencies in accordance with Executive Order 13390 (86 Fed. Reg. 7037, 7038 (Jan. 20, 2021)). Dkt. No. 113. Executive Order 13390 directs the Agencies to submit a list of recently promulgated regulations that could be subject to review to the Office of Management and Budget. 86 Fed. Reg. 7038.

¹ EPA Administrator Michael Regan and Acting Assistant Secretary of the Army for Civil Works Jaime Pinkham are automatically substituted for their predecessors in office pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

² While the Court ordered Plaintiff to file a status report no later than May 28, 2021, *see* Dkt. No. 113, by agreement, the Agencies hereby file this joint status report on behalf of the Parties.

3. Agency officials are currently reviewing the NWPR to determine whether the rule should be maintained, modified, or otherwise reconsidered. The Agencies are expecting to complete their review of the NWPR and announce next steps by June 9, 2021.

4. In light of the Agencies' anticipated completion of the review of the NWPR, the Parties hereby move by stipulation to further extend the stay period by one month, extending the final day of the stay from June 2, 2021 to July 1, 2021. The short extension would allow the Parties to plan for next steps in the litigation, incorporating the Agencies' expected next steps regarding the NWPR.

5. The Parties have met and conferred regarding this stipulated motion. Both Plaintiff and Defendant-Intervenor stipulate to the request to extend the stay in litigation until July 1.

For the foregoing reasons, the Agencies respectfully request that the Court further stay this proceeding until July 1, 2021.

Respectfully submitted this 26th day of May, 2020.

/s/ Hubert T. Lee
HUBERT T. LEE
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
150 M St. NE, Rm 4.1116
Washington, DC 20002
(202) 514-1806 (phone); (202) 514-8865 (fax)
Hubert.lee@usdoj.gov

Attorney for Defendants

/s/ (by permission)

JANETTE K. BRIMMER, Attorney
Earthjustice Northwest Office
705 2nd Ave., Suite 203
Seattle, WA 98104
206-343-7340
jbrimmer@earthjustice.org

Attorney for Defendant-Intervenor

/s/ (by permission)

ANTHONY L. FRANCOIS, Senior Attorney
Pacific Legal Foundation
930 G. Street
Sacramento, CA 95814
916-419-7111
TFrancois@pacificlegal.org

Attorney for Plaintiff

[PROPOSED] ORDER

Based upon the foregoing, and good cause appearing, the Parties' Stipulated Motion to continue the stay in this proceeding is granted. The proceeding shall be further stayed until July 1, 2021.

IT IS SO ORDERED.

Dated:

Hon. John V. Acosta, Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that the foregoing filing was electronically filed with the Clerk of the Court on May 26, 2021, using the CM/ECF system, which will send notification of said filing to the attorneys of record.

/s/ Hubert T. Lee

HUBERT T. LEE

U.S. Department of Justice

Environment and Natural Resources Division

Environmental Defense Section

150 M St. NE, Rm 4.1116

Washington, DC 20002

(202) 514-1806 (phone); (202) 514-8865 (fax)

Hubert.lee@usdoj.gov

Attorney for Defendants