

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

STATE OF NORTH DAKOTA, *et al.*,)
)
 Plaintiffs,)
)
 v.) Civil No. 3:15-cv-00059-DLH-ARS
)
 U.S. ENVIRONMENTAL PROTECTION)
 AGENCY, *et al.*,)
)
 Defendants.)

PLAINTIFF-INTERVENOR’S MOTION FOR SUMMARY JUDGMENT

COMES NOW Plaintiff-Intervenor Kimberly K. Reynolds, Governor of the State of Iowa, (“Governor Reynolds”) pursuant to Federal Rule of Civil Procedure 56(a) and Civil Local Rule 7.1, and hereby submits this Motion for Summary Judgment, and states as follows:

1. On June 1, 2018, Plaintiff States are filing a motion for summary judgment challenging the final regulation entitled “Clean Water Rule: Definition of Waters of the United States” (the “WOTUS Rule”) promulgated by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (collectively, “Agencies”).

2. Governor Reynolds hereby adopts and incorporates herein the entirety of Plaintiff States’ motion for summary judgment.

3. Additionally, Governor Reynolds moves for summary judgment on the following grounds:

a. the Agencies violate both the Clean Water Act and the U.S. Constitution by including non-navigable interstate waters as jurisdictional waters; and

b. The final “Connectivity Study” relied upon by the Agencies was not made available for public comment, and, furthermore, the study does not support the various arbitrary jurisdictional determinations made in the WOTUS Rule.

4. A concise memorandum citing supporting authorities is being filed in support of this motion.

WHEREFORE, Plaintiff-Intervenor Governor Reynolds respectfully requests the Court grant summary judgment in her favor and against the Agencies, and issue an order as follows:

- A. Declaring the WOTUS Rule unlawful;
- B. Vacating and setting aside the WOTUS Rule in its entirety;
- C. Issuing injunctive relief prohibiting the Agencies from using, applying, implementing, enforcing, or otherwise proceeding on the basis of the WOTUS Rule;
- D. Remanding the matter to the Agencies with instruction to issue a rule that complies with the Constitution, the statutory limits of the Clean Water Act, and the procedural mandates of the National Environmental Policy Act and the Administrative Procedure Act;
- E. Awarding Governor Reynolds’ costs and attorneys’ fees; and
- F. Granting Governor Reynolds such additional relief as may be necessary and appropriate or as the Court deems just and proper.

Respectfully submitted this 1st day of June, 2018,

KIMBERLY K. REYNOLDS
Governor of the State of Iowa

THOMAS J. MILLER
Attorney General of the State of Iowa

/s/ David S. Steward
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/s/ Jacob J. Larson

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Kimberly K. Reynolds, Governor of the
State of Iowa.*

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2018, I electronically filed the attached document with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record.

/s/ David S. Steward

DAVID S. STEWARD