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The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PUGET SOUNDKEEPER ALLIANCE, SIERRA CLUB, and IDAHO CONSERVATION LEAGUE,

Plaintiffs,

v.

SCOTT PRUITT, in his official capacity as Administrator of the United States Environmental Protection Agency, and R.D. JAMES, in his official capacity as Secretary of the Army for Civil Works,

Defendants,

and

AMERICAN FARM BUREAU FEDERATION, et al.,

Defendant-Intervenors

Case No. 2:15-cv-01342-JCC

PLAINTIFFS' UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL

NOTED FOR SEPTEMBER 11, 2020

Pursuant to Fed. R. Civ. P. 41(a)(2), Plaintiffs Puget Soundkeeper Alliance, Sierra Club, and Idaho Conservation League move for a voluntary dismissal of this case, without prejudice, with each party to bear its own costs and fees. Defendants U.S. Environmental Protection

1 Agency and U.S. Army Corps of Engineers (collectively “Agencies”) and Defendant-Intervenors
2 both consent to this Motion.

3 Plaintiffs filed a Complaint in this case on August 20, 2015, bringing claims under the
4 Clean Water Act and Administrative Procedure Act against specific portions of the 2015 “Clean
5 Water Rule” defining the term “waters of the U.S.” under the Clean Water Act. *See* ECF No. 1;
6 80 Fed. Reg. 37,054 (June 29, 2015) (“Clean Water Rule”). Plaintiffs later amended their
7 complaint to add claims against a rule adding a new applicability date of February 6, 2020 to the
8 Clean Water Rule. *See* ECF No. 33; 83 Fed. Reg. 5200 (Feb. 6, 2018) (“Applicability Date
9 Rule”). Plaintiffs’ claims against the Clean Water Rule were stayed pending resolution of the
10 claims against the Applicability Date Rule. ECF No. 32. On November 26, 2018, this Court
11 granted in part and denied in part Plaintiffs’ motion for summary judgment on the Applicability
12 Date Rule claims, and vacated that rule nationwide. ECF No. 61. More recently, Plaintiffs filed
13 a motion for summary judgment on only their claims against the waste treatment system
14 exclusion in the Clean Water Rule, ECF No. 67, and on November 25, 2019, this Court denied
15 Plaintiffs’ motion and granted Defendants’ and Defendant-Intervenors’ cross-motions on
16 standing grounds. ECF No. 103.

17 Around the time of this Court’s summary judgment ruling on the waste treatment system
18 claims, on October 22, 2019, the Agencies published a final regulation repealing the Clean Water
19 Rule and readopting the Agencies’ 1986 regulation and related guidance. 84 Fed. Reg. 56,626
20 (Oct. 22, 2019) (“Repeal Rule”). Then, on April 21, 2020, the Agencies published a replacement
21 rule redefining the term “waters of the U.S.” 85 Fed. Reg. 22,250 (Apr. 21, 2020).

22 Because the Agencies have now repealed and replaced the Clean Water Rule that is the
23 subject of Plaintiffs’ remaining claims in this case, voluntary dismissal under Fed. R. Civ. P.
24

1 41(a)(2) is warranted. Accordingly, Plaintiffs respectfully request that the Court enter the
2 attached Order, dismissing this case without prejudice, with each party to bear its own fees and
3 costs.

4
5 Respectfully submitted this 11th day of September, 2020.

6
7
8 /s/ Anna M. Sewell

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2020, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record and all registered participants.

/s/ Anna M. Sewell
Anna M. Sewell