

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA ex rel. Mike)
Hunter, in his official capacity as)
Attorney General of Oklahoma,)
)
Plaintiff,)

v.)

Case No. 15-CV-0381-CVE-FHM

UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, UNITED)
STATES ARMY CORPS OF ENGINEERS,)
E. SCOTT PRUITT, in his official capacity)
as Administrator of the United States)
Environmental Protection Agency, and)
JO-ELLEN DARCY, in her official capacity)
as Assistant Secretary of the Army for)
Civil Works,)
)
Defendants.)

CHAMBER OF COMMERCE OF THE)
UNITED STATES OF AMERICA,)
NATIONAL FEDERATION OF)
INDEPENDENT BUSINESS, TULSA)
REGIONAL CHAMBER, PORTLAND)
CEMENT ASSOCIATION, and STATE)
CHAMBER OF OKLAHOMA,)

Plaintiffs,)

Case No. 15-CV-0386-CVE-PJC

v.)

UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, E. SCOTT)
PRUITT, in his official capacity as)
Administrator of the United States)
Environmental Protection Agency,)
UNITED STATES ARMY CORPS OF)
ENGINEERS, and JO-ELLEN DARCY,)
in her official capacity as Assistant)
Secretary of the Army (Civil Works),)

Defendants.)

ADMINISTRATIVE CLOSING ORDER

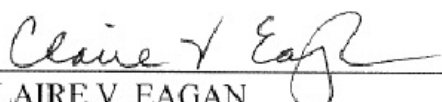
On February 21, 2018, the Court ordered the parties to show cause why these companion cases should not be administratively closed pending completion of an ongoing rulemaking process that will likely render these cases moot. 15-CV-381-CVE-FHM, Dkt. # 52; 15-CV-386-CVE-PJC, 62. In these companion cases, the plaintiffs challenge the definition of the term “Waters of the United States” adopted in the Clean Water Rule promulgated by the EPA in 2015 (2015 Rule). The federal defendants have filed notice that the EPA has proposed a rule that would add an applicability date to the 2015 Rule and keep in place the definition of “Waters of the United States” that was in effect before the 2015 Rule was adopted. 15-CV-381-CVE-FHM, Dkt. # 49; 15-CV-386-CVE-PJC, Dkt. # 60. This is part of a process in which the EPA intends to “review and revise” the 2015 Rule, and this includes a separate rulemaking process to rescind the 2015 Rule and permanently restore the definition of “Waters of the United States” that was in place before 2015. Id. The EPA further states that it is not currently enforcing the definition of “Waters of the United States” contained in the 2015 Rule. Id.

The parties have filed a joint response to the order to show cause and they ask the Court to stay these companion cases. Defendants take no position on whether the cases should be administratively closed, but plaintiffs object that it would be an “additional procedural step” if they were required to file a motion to reopen the case. However, plaintiffs will have to file a motion to lift the stay even if the case is not administratively closed, and no “additional procedural step” will be required if the case is administratively closed. The Court finds the cases should be administratively closed while the EPA completes its rulemaking process concerning the definition of “Waters of the United States.”

IT IS THEREFORE ORDERED that, pursuant to LCvR 41.1, that the Court Clerk is directed to **administratively close** these cases pending either an order of the Court reopening the action, or until the cases are dismissed with prejudice by stipulation of the parties.

IT IS FURTHER ORDERED that the parties shall file a status report concerning the status of the rulemaking process and the need for further litigation in these companion cases no later than **March 9, 2019**.

DATED this 9th day of March, 2018.



CLAIRE V. EAGAN
UNITED STATES DISTRICT JUDGE