

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

States of West Virginia, North Dakota,)
Georgia, Iowa, Alabama, Alaska, Arkansas,)
Florida, Indiana, Kansas, Louisiana,)
Mississippi, Missouri, Montana, Nebraska,)
New Hampshire, Ohio, Oklahoma,)
South Carolina, South Dakota, Tennessee,)
Utah, Virginia, and Wyoming,)

ORDER LIFTING STAY

Plaintiffs,)

and)

American Farm Bureau Federation,)
American Petroleum Institute, American)
Road and Transportation Builders)
Association, Associated General)
Contractors of America, Cass County Farm)
Bureau, Leading Builders of America,)
National Apartment Association, National)
Association of Home Builders of the United)
States, National Association of Realtors,)
National Cattlemen’s Beef Association,)
National Corn Growers Association,)
National Mining Association, National)
Multifamily Housing Council, National)
Pork Producers Council, National Stone,)
Sand and Gravel Association, North Dakota)
Farm Bureau, Public Lands Council,)
and U.S. Poultry and Egg Association,)

Intervenor-Plaintiffs,)

vs.)

Case No. 3:23-cv-032

U.S. Environmental Protection Agency,)
Michael S. Regan, in his official capacity)
as Administrator of the U.S. Environmental)
Protection Agency, Michael L. Connor, in)
his official capacity as Assistant Secretary)
of the Army for Civil Works, and)
LTG Scott A. Spellmon, in his official)
capacity as Chief of Engineers and)

Commanding General, U.S. Army)
Corps of Engineer,)
)
Defendants,)
)
and)
)
Chickaloon Village Traditional Council,)
Rappahannock Tribe, Tohono O’odham)
Nation, and White Earth Band of)
Minnesota Chippewa Tribe,)
)
Intervenor-Defendants.)

On July 18, 2023, the Court issued a stay in the above-entitled matter ending publication of a final rule regarding the definition of “Waters of the United States” in the Federal Register. See Doc. No. 151. On September 8, 2023, the Federal Defendants published a final rule that amended provisions in the Code of Federal Regulations promulgated in the 2023 Rule. See Revised Definition of “Waters of the United States”; Conforming, 88 Fed. Reg. 61964 (“Conforming Rule”).

Accordingly, the Court finds the basis for imposing the stay no longer exists. Accordingly, the Court **ORDERS** the stay imposed on July 18, 2023, be lifted. The Court **ORDERS** as follows:

1. The State Plaintiffs shall file an amended complaint to challenge the Amended 2023 Regulations by no later than November 13, 2023.
2. The Plaintiff-Intervenors shall file an amended complaint to challenge the Amended 2023 Regulations by no later than November 13, 2023.
3. The Agencies shall answer or otherwise respond to the amended complaints by no later than December 13, 2023.
4. The Defendant-Intervenors shall answer or otherwise respond to the amended complaints by no later than December 13, 2023.
5. The Parties shall propose a schedule or schedules for further proceedings no later than December 21, 2023.

IT IS SO ORDERED.

Dated this 10th day of October, 2023.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court