

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

_____)	
NAVAJO NATION,)	
)	
Plaintiff,)	
v.)	No. 2:20-cv-602-MV-GJF
)	
MICHAEL REGAN, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

WHEREAS, on June 22, 2020, the Navajo Nation filed a complaint in this case, ECF No. 1, challenging two rules defining “Waters of the United States” (WOTUS) issued by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (Agencies): one published in 2019, “Definition of ‘Waters of the United States’ – Recodification of Pre-Existing Rules,” 84 Fed. Reg. 56,626 (2019 WOTUS Rule), that rescinded the prior 2015 WOTUS Rule, and another published in 2020, “Navigable Waters Protection Rule,” 85 Fed. Reg. 22,250 (2020 WOTUS Rule), that redefined the term WOTUS;

WHEREAS, the Court issued a memorandum order and opinion granting Plaintiff’s request for vacatur of the 2020 WOTUS Rule and denying without prejudice Plaintiff’s motion for summary judgment challenging the 2019 WOTUS Rule, instructing the parties to meet and confer and file a proposal for further proceedings, ECF No. 43 (Sept. 27, 2021);

WHEREAS, on October 26, 2021, the parties filed a joint motion to hold Plaintiff’s remaining claims in abeyance pending the completion of the Agencies’ rulemaking regarding a

revised definition of “waters of the United States,” ECF No. 44, which the Court granted on October 28, 2021, ECF No. 45; and

WHEREAS, on January 18, 2023, the Agencies published a final rule entitled “Revised Definition of ‘Waters of the United States’” in the Federal Register that supersedes prior WOTUS Rules, 88 Fed. Reg. 3004;

NOW, THEREFORE, all parties in the captioned litigation hereby agree to the following:

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff and Defendants hereby stipulate to the voluntary dismissal without prejudice of the only unresolved claims in this case, that is, those challenging the 2019 WOTUS Rule. The parties agree that each party shall bear its own costs and fees. The parties request that the Clerk now close this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2023, I caused the following to be filed and served upon counsel of record via the Court's CM/ECF filing system:

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

/s/ Jill Elise Grant