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26 **IN THE UNITED STATES DISTRICT COURT**
 27 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

28 WATERKEEPER ALLIANCE, INC., *et al.*
 Plaintiffs,

v.

ANDREW R. WHEELER, *et al.*,
 Defendants.

Case No.: 3:18-cv-3521-RS

STIPULATED REQUEST FOR ORDER
EXTENDING THE BRIEFING
SCHEDULE AND ORDER

1 The parties submit this stipulated request for a 60-day extension of the summary
2 judgment briefing schedule in the above-captioned case.

3 In support of this request, the parties state the following:

4 1. Plaintiffs Waterkeeper Alliance, Inc, et al. challenge a 2015 regulation that
5 revised certain regulatory provisions relating to the definition of “waters of the United States”
6 under the Clean Water Act. *See* Compl., Dkt. No. 1, ¶ 3 (challenging Clean Water Rule:
7 Definition of “Waters of the United States,” 80 Fed. Reg. 37,054 (June 29, 2015) (“2015
8 Rule”)).

9 2. On September 12, 2019, the Administrator of the Environmental Protection
10 Agency (“EPA”) and the Assistant Secretary of the Army for Civil Works signed a final rule
11 entitled “Definition of ‘Waters of the United States’—Recodification of Pre-Existing Rules”
12 (“Repeal Rule”). The Repeal Rule: (1) rescinded the 2015 Rule at issue in this matter; and (2)
13 recodified the text of the prior regulatory definition of “waters of the United States”. The
14 Repeal Rule was published in the Federal Register on October 22, 2019, and became effective
15 on December 23, 2019. 84 Fed. Reg. 56,626 (Oct. 22, 2019).

16 3. On January 23, 2020, the Administrator of EPA and the Assistant Secretary of the
17 Army for Civil Works signed a final rule entitled “Navigable Waters Protection Rule:
18 Definition of ‘Waters of the United States’” (“2020 Rule”). The pre-publication version is
19 available on EPA’s website, [https://www.epa.gov/nwpr/final-rule-navigable-waters-protection-](https://www.epa.gov/nwpr/final-rule-navigable-waters-protection-rule)
20 [rule](https://www.epa.gov/nwpr/final-rule-navigable-waters-protection-rule) (last visited February 19, 2020). The 2020 Rule defines “waters of the United States”
21 under the Clean Water Act and is intended to replace the Repeal Rule. The 2020 Rule will be
22 published in the Federal Register and will be effective 60 days thereafter.

23 4. In this case, Plaintiffs moved for summary judgment on January 9, 2020. Dkt.
24 Nos. 74-75. Under this Court’s order dated November 22, 2019, Defendants’ combined
25 opposition and cross-motion for summary judgment is due March 2, 2020, and Plaintiffs’ reply
26 is due April 2, 2020. Dkt. No. 71.

/s/ Hubert T. Lee

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ORDER

Before the Court is the Parties’ stipulation for a 60-day extension of the summary judgment briefing schedule in the above-captioned case. The Parties seek to extend by 60 days both the March 2, 2020 deadline for Defendants’ combined opposition to Plaintiffs’ motion for summary judgment (Dkt. Nos. 74, 75) and cross-motion for summary judgment, and the April 2, 2020 deadline for Plaintiffs’ reply. Upon due consideration, and for good cause shown, the Parties’ request is hereby GRANTED.

PURSUANT TO STIPULATION IT IS SO ORDERED THAT:

1. On or before May 1, 2020, defendants will file their combined opposition and cross motion for summary judgment of no more than 45 pages.
2. On or before June 1, 2020, plaintiffs will file their reply, if any, to defendants’ combined opposition and cross motion of no more than 25 pages.
3. The cross motions for summary judgment shall be heard on June 25, 2020, at 1:30 pm in Courtroom 3, 17th Floor, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California.
4. The parties shall meet and confer within 10 days from the date any motion for leave to file an amended complaint is granted and parties shall present the Court with a proposed schedule for the Repeal Rule and 2020 Rule claims within 14 days from the date of the parties’ meet and confer.

DATED this 26th day of February, 2020.



Richard Seeborg
United States District Court Judge