

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

STATE OF GEORGIA, et al.,

Plaintiffs,

v.

REGINA A. MCCARTHY, et al.,

Defendants.

CIVIL ACTION NO.: 2:15-cv-79

This cause of action was brought by the Attorneys General for the States of Georgia, West Virginia, Alabama, Florida, Kansas, Kentucky, South Carolina, Utah, and Wisconsin, (“Plaintiffs” or “the States”), against Defendants Regina McCarthy, Administrator of the Environmental Protection Agency (“EPA”); the EPA; Jo-Ellen Darcy, the Assistant Secretary of the Army; and the United States Army Corps of Engineers, (“Defendants” or “the Agencies”). According to Plaintiffs, the Defendant agencies are attempting to “usurp the States’ primary responsibility for the management, protection, and care of intrastate waters and lands. The federal agencies’ assertion of authority should be vacated and enjoined because it violates the Clean Water Act, the Administrative Procedures Act, and the Constitution.” (Doc. 1, p. 3.) The Natural Resources Defense Council, National Wildlife Federation, One Hundred Miles, and the South Carolina Coastal Conservation League, (the “Conservation Groups”), have moved to intervene in this cause of action, and it is the Conservation Groups’ Motion which is presently before this Court. (Doc. 36.)

On August 27, 2015, the Honorable Lisa Godbey Wood denied Plaintiffs’ Motion for a Preliminary Injunction. (Doc. 77.) In so doing, Judge Wood determined this Court does not

have jurisdiction to hear a challenge to the Waters of the United States Rule, or “WOTUS Rule”, “as that jurisdiction is exclusively vested in the Court[s] of Appeals.” (Id. at p. 6) (agreeing with the Northern District of West Virginia’s jurisdictional finding in Murray Energy Corp. v. EPA, et al., No. 1:15CV110 (N.D. W. Va. Aug. 26, 2015).). Judge Wood’s finding is currently on interlocutory appeal before the Eleventh Circuit Court of Appeals. (Docs. 79, 82.)

In light of Judge Wood’s Order dated August 27, 2015, which questions the very jurisdiction of this Court to hear this matter, the Conservation Groups’ Motion to Intervene, (doc. 36), is **DISMISSED without prejudice** at this time. Should Judge Wood’s ruling be reversed on appeal, the Conservation Groups may re-urge their Motion.

SO ORDERED, this 12th day of February, 2016.



R. STAN BAKER
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA