

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENVIRONMENTAL JUSTICE HEALTH
ALLIANCE FOR CHEMICAL POLICY REFORM,
et al.,

Plaintiffs,

v.

COUNCIL ON ENVIRONMENTAL QUALITY;
and MARY B. NEUMAYR, in her official capacity
as Chairman of the Council on Environmental
Quality,

Defendants,

- and -

AMERICAN FARM BUREAU FEDERATION, et
al.,

Intervenors.

20 Civ. 6143 (CM)

**STIPULATION AND CONSENT
ORDER STAYING THE
PROCEEDING**

WHEREAS on August 6, 2020, plaintiffs filed the above-captioned action challenging the Council on Environmental Quality's rule titled Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (the "2020 Rule"), pursuant to the Administrative Procedures Act;

WHEREAS there are currently four other cases in three federal district courts challenging the 2020 Rule: Wild Va. v. CEQ, No. 3:20-cv-00045-JPJ-PMS (W.D. Va.); Alaska Cmty. Action on Toxics v. CEQ, No. 3:20-cv-05199-RS (N.D. Cal.); California v. CEQ, No. 3:20-cv-06057-RS (N.D. Cal.); Iowa Citizens for Cmty. Improvement v. CEQ, No. 1:20-cv-02715-TJK (D.D.C.);

WHEREAS on September 21, 2020, the Court entered a Case Management Plan, which was amended on November 13, 2020 (Dkt. No. 46) and again on December 1, 2020 (Dkt. No. 50);

WHEREAS on October 13, 2020, the Court permitted the American Farm Bureau

Federation and several other entities to intervene in this matter (Dkt. No. 34);

WHEREAS on November 17, 2020, defendants filed a motion to dismiss the complaint for lack of jurisdiction (Dkt. No. 47);

WHEREAS on December 23, 2020, plaintiffs filed an amended complaint (Dkt. No. 55);

WHEREAS on January 19, 2021, defendants filed a motion to dismiss the amended complaint for lack of jurisdiction (Dkt. No. 56);

WHEREAS on January 22, 2021, intervenors filed a motion to dismiss the amended complaint for lack of jurisdiction (Dkt. No. 58);

WHEREAS on January 20, 2021, the 2020 Rule was identified by the White House as an agency action that will be reviewed “in accordance with the Executive Order: ‘Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.’” Fact Sheet: List of Agency Actions for Review, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/>; see also Executive Order 13990, 86 Fed. Reg. 7037 (Jan. 25, 2021);

WHEREAS the Council on Environmental Quality requires additional time to review the 2020 Rule because the agency is still in the process of onboarding new officials and is awaiting confirmation and appointment of a new Chair;

WHEREAS on February 9, 2021, the district court presiding over Iowa Citizens for Cmty. Improvement v. CEQ, No. 1:20-cv-02715-TJK (D.D.C.), entered an order staying proceedings for 60 days;

WHEREAS on February 12, 2021, the district court presiding over Alaska Cmty. Action on Toxics v. CEQ, No. 3:20-cv-05199-RS (N.D. Cal.), and California v. CEQ, No. 3:20-cv-06057-RS (N.D. Cal.), entered an order staying the proceedings for 60 days;

WHEREAS plaintiffs and defendants agree a stay of this matter is appropriate to permit the Council on Environmental Quality's review of the 2020 Rule, and is within the Court's broad discretion to stay proceedings and defer judicial review, see *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); and

WHEREAS intervenors take no position on plaintiffs' and defendants' request for a stay; NOW, THEREFORE, it is stipulated and agreed, and the Court hereby orders, as follows:

1. This case is STAYED for 60 days from the date of this order.
2. All currently pending deadlines are VACATED.
3. The parties are directed to submit a status letter within 60 days of the entry of this order outlining a proposal for how this matter will proceed.
4. The terms of this Stipulation and Consent Order shall become effective upon its entry by the Court. If the Stipulation and Consent Order is not approved and entered by the Court, it shall be null and void, with no force or effect.

Dated: February 12, 2021

Respectfully submitted,

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SO ORDERED:



HONORABLE COLLEEN MCMAHON
United States District Judge

Dated: February 16, 2021, New
York, New York