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10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 STATE OF CALIFORNIA, *et al.*,

13 Plaintiffs,

14 v.

15  
16 MICHAEL REGAN<sup>1</sup>, as the Administrator of  
17 the United States Environmental Protection  
Agency, *et al.*,

18 Defendants,

19 and

20 STATE OF GEORGIA, *et al.*,

21 Defendant-Intervenors.  
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Case No. 3:20-cv-03005-RS

**PARTIES' JOINT STATUS REPORT**

Action Filed: May 1, 2020

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28 <sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Michael Regan is automatically substituted in place of Andrew Wheeler.

1 Pursuant to this Court’s February 17, 2021 order, *see* Dkt. No. 229, Plaintiffs<sup>2</sup>,  
 2 Defendants (“Agencies”)<sup>3</sup>, and State Intervenor-Defendants<sup>4</sup> (collectively, the “Parties”)  
 3 hereby submit the following joint status report regarding the status of the Agencies’ review of  
 4 the Navigable Waters Protection Rule (“NWPR”), 85 Fed. Reg. 22,250 (Apr. 21, 2020), and  
 5 the Agencies’ plan to seek a further stay and enlargement of existing deadlines. *See* Dkt. No.  
 6 229 at 2.

7 **I. Status of the Agencies’ Review of the NWPR.**

8 Since the Court’s February 17, 2021 order staying this proceeding, there have been  
 9 substantive developments regarding the Agencies’ review of the NWPR. The new  
 10 Administrator of the EPA, Michael Regan, was sworn in on March 10, 2021. *See* 167 Cong.  
 11 Rec. S1456 (daily ed. Mar. 10, 2021). The new Administrator and his staff have since been  
 12 briefed regarding the Rule, and the new administration has been presented with and is  
 13 weighing various options regarding the Rule. While the Agencies have not yet made a decision  
 14 regarding whether the NWPR should be maintained, modified, or otherwise reconsidered, the  
 15 Agencies’ review is active and ongoing.

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 18 <sup>2</sup> Plaintiffs are the States of California, New York, Connecticut, Illinois, Maine, Maryland,  
 19 Michigan, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont,  
 20 Washington and Wisconsin, the Commonwealths of Massachusetts and Virginia, the North  
 21 Carolina Department of Environmental Quality, the District of Columbia, and the City of New  
 22 York.

23 <sup>3</sup> Defendants are the United States Environmental Protection Agency (“EPA”), EPA  
 24 Administrator Michael Regan, United States Army Corps of Engineers, and Acting Assistant  
 25 Secretary of the Army for Civil Works Mr. Taylor N. Ferrell (“Defendants” or “Agencies”).  
 EPA Administrator Michael Regan is automatically substituted for Andrew Wheeler, and  
 Taylor N. Ferrell is automatically substituted for R.D. James, pursuant to Rule 25(d) of the  
 Federal Rules of Civil Procedure.

26 <sup>4</sup> State Intervenor-Defendants are the States of Georgia, West Virginia, Alabama, Alaska,  
 27 Arkansas, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana,  
 28 Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas,  
 Utah, and Wyoming.

1 **II. Plans to Seek a Further Stay or Enlargement of Deadlines.**

2 The Agencies intend to file a motion to continue the stay of this proceeding for another  
3 60 days and to extend the existing litigation deadlines by an additional period of 75 days. The  
4 Parties have met and conferred regarding this proposed motion to further continue the stay and  
5 extend existing litigation deadlines. Plaintiffs do not plan to oppose the motion; State  
6 Intervenor-Defendants have stated they will oppose the motion.

7 Dated: April 8, 2021

Respectfully submitted,

8 /s/Hubert T. Lee

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