

The Honorable Ricardo S. Martinez

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

_____	)	
COLUMBIA RIVERKEEPER, ET AL.,	)	
	)	
Plaintiffs,	)	No. 2:17-cv-00289-RSM
	)	
v.	)	
	)	<b>STIPULATED MOTION REGARDING</b>
ANDREW WHEELER, ET AL., <sup>1</sup>	)	<b>TIMING OF TMDL ISSUANCE</b>
	)	
Defendants.	)	NOTE ON MOTION CALENDAR:
_____	)	April 10, 2020

Defendants Andrew R. Wheeler, Administrator, and the United States Environmental Protection Agency (collectively, “EPA”), and Plaintiffs Columbia Riverkeeper, et al., (collectively, “the Parties”), by and through their respective counsel, hereby stipulate and agree that the “Total Maximum Daily Load,” or TMDL, that was the subject of this litigation shall be issued by EPA no later than Monday, May 18, 2020. As the Parties informed the Court in their April 6, 2020 Notice, ECF No. 62, EPA’s effort to finalize the temperature TMDL for the Columbia and Lower Snake Rivers has been delayed by the ongoing COVID-19 pandemic. Nearly all personnel in the EPA Region 10 Office in Seattle and the Office of Water in EPA’s

<sup>1</sup> Acting EPA Administrator Andrew R. Wheeler is automatically substituted for his predecessor in office pursuant to Fed. R. Civ. P. 25(d).

1 Headquarters Office in Washington, D.C., are now remotely teleworking. And a number of  
2 individuals with roles in finalizing the TMDL have been directly involved in pandemic response  
3 operations. In consideration of the impacts caused by this national emergency over the last  
4 month, and the impacts that are likely to continue into the future, the Parties agree that EPA's  
5 obligation to issue the TMDL should be extended until May 18, 2020. This brief extension will  
6 allow for timely issuance of the TMDL in accordance with this Court's October 17, 2020 Order  
7 on summary judgment, *see* ECF No. 39, and the Ninth Circuit's ruling and mandate affirming  
8 that Order, *see* ECF Nos. 59, 63. The Parties agree that this extension is fair and equitable and  
9 does not prejudice any party to the litigation.

10 For the foregoing reasons, the Parties respectfully request that the Court issue an order  
11 endorsing the Parties' stipulation that EPA shall issue the TMDL no later than May 18, 2020.

12 DATED: April 10, 2020

Respectfully submitted,

13 /s/ Chloe H. Kolman

14 CHLOE H. KOLMAN  
15 Environmental Defense Section  
16 P.O. Box 7611  
17 Washington, D.C. 20044  
18 (202) 514-9277  
19 chloe.kolman@usdoj.gov

*Counsel for Defendants*

20 /s/ Bryan Hurlbutt (with permission)

21 BRYAN HURLBUTT  
22 Advocates for the West  
23 P.O. Box 1612  
24 Boise, ID 83701  
(208) 342-7024 x206  
bhurlbutt@advocateswest.org

*Counsel for Plaintiffs*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of April, 2020, I filed the foregoing Stipulated Motion Regarding Timing of TMDL Issuance with the Clerk of the Court using the CM/ECF system which will cause a copy to be served upon counsel of record.

/s/ Chloe H. Kolman