UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONSERVATION LAW FOUNDATION, ET AL,	)	
Plaintiffs,	)	
v.	)	CIVIL ACTION NO. 20-10820-DPW
U.S. ENVIRONMENTAL PROTECTION AGENCY, ET AL,	)	
Defendants,	)	
CHANTELL SACKETT, MICHAEL SACKETT,	)	
Defendant-Intervenors.	)	

MEMORANDUM AND ORDER
OF REMAND AND DISMISSAL
September 1, 2021

This is one of a number of cases filed in various United States District Courts throughout the nation challenging definitional rules promulgated by the United States Environmental Protection Agency and the United States Army Corps of Engineers regarding what constitutes "waters of the United States" for purposes of the Federal Water Pollution Control Act, popularly known as the Clean Water Act. With the arrival of a new Presidential administration, EPA and the Army Corps of Engineers have provided notice of intent to revise the definitional rules, including the Navigable Waters Protection Rule at issue in this case.

The federal government defendants seek voluntary remand to the agencies and dismissal of this case. The plaintiffs oppose remand unless the current Rule is vacated. Defendant-Intervenors oppose remand as to one specific provision — the "adjacent wetlands" provision — which they request that I reach (and uphold) on the merits.

Given the progress of related litigation elsewhere, I believe the most prudent step to resolve this case in this court is to grant the request for voluntary remand and dismiss this case without independently vacating the challenged Rule. In this connection, I note that the United States District Court for the District of Arizona has earlier this week addressed the salient issues by vacating the Rule which is the subject of this litigation and ordering prompt further briefing concerning another related rule. *Pasqua Yaqui Tribe,* et al. v. *U.S. Env't Prot. Agency,* et al., No. CV-20—00266-TUC-RM, 2021 WL 3855977 (D. Ariz. Aug. 30, 2021). The most orderly means for me to assist in resolving the larger dispute over the Rule at issue is to remand this case to the agencies and correlatively dismiss it without separately addressing the merits as to which the litigation is in an advanced stage in the District of Arizona.

Accordingly, the federal defendants' motion (ECF # 112] for remand without vacatur is hereby GRANTED and this case in this court is hereby DISMISSED, without addressing the cross-motions

for summary judgment filed respectively by the plaintiffs [ECF # 30] and the federal defendants [ECF # 45], which the Clerk is directed to terminate.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE