UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA ex rel. Mike Hunter, in his official capacity as Attorney General of Oklahoma, Plaintiff, and CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, TULSA REGIONAL CHAMBER, PORTLAND CEMENT ASSOCIATION, and STATE CHAMBER OF OKLAHOMA, Consolidated Plaintiffs, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, UNITED STATES ARMY CORPS OF ENGINEERS, ANDREW WHEELER, in his official capacity as Acting Administrator of the United States Environmental Protection Agency, and RICKEY JAMES, in his official capacity as Assistant Secretary of the Army for Civil Works, Defendants/Consolidated Defendants.	Case No. 15-CV-0381-CVE-FHM BASE FILE Consolidated with: Case No. 15-CV-0386-CVE-FHM

SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION

Plaintiff the State of Oklahoma and Plaintiffs the Chamber of Commerce of the United States of America, National Federation of Independent Business, State Chamber of Oklahoma, Tulsa Regional Chamber, and Portland Cement Association (collectively, "Plaintiffs") respectfully submit this supplemental brief in support of their motions for a preliminary injunction.

BACKGROUND

On June 29, 2015, the U.S. Environmental Protection Agency and the U.S Army Corps of Engineers ("Agencies") published the rule challenged in these consolidated actions ("WOTUS Rule"), which significantly expanded the Agencies' jurisdiction over waters within Oklahoma and other States. *See Clean Water Rule: Definition of "Waters of the United States,"* 80 Fed. Reg. 37,054 (June 29, 2015). Plaintiffs immediately filed actions in this Court challenging the WOTUS Rule and filed separate motions for preliminary injunctions. *See* No. 15-cv-381, Doc. 18 (July 8, 2015) ("Oklahoma Mot."); No. 15-cv-386, Doc. 27 (July 24, 2015) ("Associations Mot."). Shortly thereafter, the Court stayed briefing on Plaintiffs' motions. No. 15-cv-381, Doc. 22.

Since July 2015, when Plaintiffs filed their preliminary-injunction motions, the WOTUS Rule has been the subject of numerous judicial and administrative proceedings. Plaintiffs briefly summarize them below.

North Dakota Litigation. On August 27, 2015, the U.S. District Court for the District of North Dakota preliminarily enjoined the WOTUS Rule from taking effect in thirteen States: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming. *North Dakota v. EPA*, 127 F. Supp. 3d 1047, 1051 n.1, 1059-60 (D.N.D. 2015). The court issued this preliminary injunction because it determined, among other things, that the States were likely to succeed on the merits of their claim because the WOTUS Rule suffered from numerous "fatal defect[s]," including that it was inconsistent with any plausible reading of Supreme Court precedent, was arbitrary and capricious, and was procedurally improper. *Id.* at 1056-58. The court also concluded that the WOTUS Rule would "irreparably diminish the States' power over their waters" and inflict "irreparable harm in the form of unrecoverable monetary harm," and that these harms outweighed any asserted injury to the public interest. *Id.* at 1059-60.

Petitions for Review in the U.S. Court of Appeals for the Sixth Circuit. On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit issued a nationwide stay of the WOTUS rule, having consolidated several petitions for review of the WOTUS Rule. *In re E.P.A.,* 803 F.3d 804 (6th Cir. 2015). The court concluded, among other things, that the petitioners had "demonstrated a substantial possibility of success on the merits of their claims" because the WOTUS Rule was "facially suspect." *Id.* at 807. In light of the "the pervasive nationwide impact of the new Rule on state and federal regulation of the nation's waters" and the risk of injury "visited nationwide on governmental bodies, state and federal, as well as private parties," the court determined that "the sheer breadth of the ripple effects caused by the Rule's definitional changes counsels strongly in favor of maintaining the status quo for the time being." *Id.* at 806, 808. The court's stay was vacated, however, after the U.S. Supreme Court determined that the Sixth Circuit lacked jurisdiction to hear the challenges to the WOTUS Rule. *See Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 138 S. Ct. 617 (2018).

The Agencies' Reconsideration of the WOTUS Rule. In July 2017, the Agencies published a proposal to repeal and replace the WOTUS Rule in a "comprehensive, two-step process." *Definition of "Waters of the United States"—Recodification of Pre-Existing Rules*, 82 Fed. Reg. 34,899, 34,899 (July 27, 2017). The Agencies proposed to first "rescind" the WOTUS Rule and then, second, to conduct a "substantive re-evaluation of the definition of 'waters of the United States.'" *Id.*

In February 2018, after the Sixth Circuit's stay of the WOTUS Rule was vacated, the Agencies issued a new rule that added an applicability date so that the WOTUS Rule would not be implemented until February 6, 2020. *Definition of "Waters of the U.S."—Addition of an Applicability Date to 2015 Clean Water Rule*, 83 Fed. Reg. 5,200, 5201 (Feb. 6, 2018) ("Suspension Rule"). The Agencies issued this decision to provide "continuity and regulatory certainty for regulated entities, the States and Tribes, agency staff, and the public while the agencies continue to consider possible revisions." *Id.* at 5,200.

Georgia Litigation. On June 6, 2018, the U.S. District Court for the Southern District of Georgia enjoined the WOTUS Rule within the boundaries of eleven States: Georgia, Alabama, Florida, Indiana, Kansas, Kentucky, North Carolina, South Carolina, Utah, West Virginia, and Wisconsin. *Georgia v. Pruitt*, 326 F. Supp. 3d 1356, 1364-65 (S.D. Ga. 2018). The Court preliminarily enjoined the rule because it found that the States were likely to succeed on the merits of their claims that the WOTUS Rule impermissibly exceeded the Agencies' authority under the Clean Water Act and violated the Administrative Procedures Act ("APA"). *Id.* at 1364-66. The court further concluded that the WOTUS Rule would cause "immediate" irreparable injury in the form of unrecoverable monetary costs and lost sovereignty; the balance of equities favored an injunction because any harm to the Agencies "pale[d]" in comparison to the States' harms; and an injunction served the public interest because the public had no interest in enforcing an illegal rule. *Id.* at 1366-70. Importantly, the court concluded, if the WOTUS Rule took effect, "farmers, homeowners, and small businesses will need to devote time and expense to obtaining federal permits—all to comply with a rule that is likely to be invalidated." *Id.*

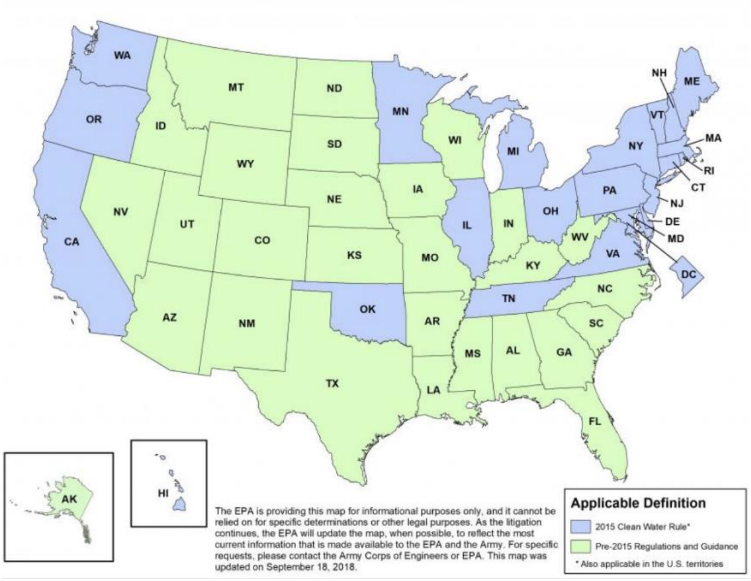
Further Agency Action Regarding the WOTUS Rule. On July 12, 2018, the Agencies issued a notice making clear their intent to "permanently repeal the [WOTUS] Rule in its entirety." *Definition of "Waters of the United States"—Recodification of Preexisting Rule*, 83 Fed. Reg. 32,227, 32,227-28, 32,240 (July 12, 2018) ("Supplemental Notice"). According to the Agencies, "rather than achieving its stated objectives of increasing predictability and consistency under the CWA, the 2015 Rule is creating significant confusion and uncertainty for agency staff, regulated entities, states, tribes, local governments, and the public." *Id.* at 32,228 (citation omitted). Moreover, they concluded, "the interpretation of the statute adopted in the 2015 Rule is not compelled and raises significant legal questions." *Id.*

South Carolina Litigation. On August 16, 2018, the U.S. District Court for the District of South Carolina enjoined the Suspension Rule, finding that it was likely implemented in violation of the APA. *S.C. Coastal Conservation League v. Pruitt*, 318 F. Supp. 3d 959, 962 (D.S.C. 2018). As a consequence of enjoining the Suspension Rule, the WOTUS Rule went into effect in 26 States, including Oklahoma.

Texas Litigation. On September 12, 2018, the U.S. District Court for the Southern District of Texas preliminarily enjoined the WOTUS Rule as to Texas, Louisiana, and Mississippi. *See Texas v. EPA*, 2018 WL 4518230, at *1 (S.D. Tex. Sept. 12, 2018). According to the court, "clarification regarding what is, and what is not, a navigable water under the Clean Water Act is long overdue." *Id.* "[U]ntil that question can ultimately be answered, a stay provides much needed governmental, administrative, and economic stability." *Id.* "Were the Court not to temporarily enjoin the Rule now, it risks asking the states, their governmental subdivisions, and their citizens to expend valuable resources and time operationalizing a rule that may not survive judicial review." *Id.* The Court thus "decided to avoid the harmful effects of a truncated implementation, and enjoin the Rule's effectiveness until a permanent decision regarding the Rule's constitutionality can be made." *Id.*

Injunction as to Iowa. On September 18, 2018, the U.S. District Court for the District of North Dakota extended its preliminary injunction of the WOTUS Rule as to Iowa. *North Dakota v. E.P.A.*, No. 15-cv-59 (D.N.D. Sept. 18, 2018). The court found "good cause" for this injunction because Iowa had intervened in the lawsuit after the court's original preliminary injunction as to 13 States and the Court had previously determined that the preliminary injunction should apply to "all the 'parties in this litigation.'" *Id.* at 2.

Current Status of the WOTUS Rule. Currently, the WOTUS Rule is enjoined in 28 States and is in effect in 22 States plus the District of Columbia. Oklahoma is among those States where the Rule is in effect, as the following EPA map shows:



EPA, *Definition of "Waters of the United States": Rule Status and Litigation Update*, https://bit.ly/2V2y3Z8 (last visited Feb. 19, 2019). In particular, although Oklahoma is subject to the WOTUS Rule, the six States that border Oklahoma (Kansas, Missouri, Arkansas, Texas, New Mexico, and Colorado) are subject to the pre-2015 regulations. *Id.*

ARGUMENT

As explained in their preliminary-injunction motions, Oklahoma Mot. 12-22; Associations Mot. 9-23, and further below, Plaintiffs are entitled to a preliminary injunction because (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

I. Plaintiffs Are Likely to Succeed on the Merits

As explained in Plaintiffs' preliminary-injunction motions, Plaintiffs are likely to succeed on the merits of their claims because the WOTUS Rule exceeds the Agencies' authority under the Clean Water Act, Article I of the U.S. Constitution, and the Tenth Amendment, is arbitrary and capricious

under the APA, failed to comply with the procedural requirements of the APA, and violates the Regulatory Flexibility Act. Oklahoma Mot. 12-21; Associations Mot. 9-19.

These arguments are just as persuasive today. Indeed, since Plaintiffs filed their motions in 2015, *every court* that has addressed the issue has determined that the WOTUS Rule is likely unenforceable. *Supra* 2-5. As these courts have recognized, the Agencies likely "violated their statutory authority [under the Clean Water Act] in promulgating the WOTUS Rule." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1364-65; *North Dakota v. EPA*, 127 F. Supp. 3d at 1055-56 (same); *In re EPA*, 803 F.3d at 807 (same). The WOTUS Rule likely violates the APA because the rule "asserts jurisdiction over remote and intermittent waters without evidence that they have a nexus with any navigable-in-fact waters." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1365; *North Dakota v. EPA*, 127 F. Supp. 3d at 1058 (same). And the WOTUS Rule likely violates the APA because the final rule was not a "logical outgrowth" of the proposed rule. *North Dakota v. EPA*, 127 F. Supp. 3d at 1058; *In re EPA*, 803 F.3d at 807-08 (same); *Georgia v. Pruitt*, 326 F. Supp. 3d at 1365-66 (same). These numerous "fatal defects," *North Dakota v. EPA*, 127 F. Supp. 3d at 10, weigh "overwhelmingly" in favor of Plaintiffs' arguments on the merits, *Georgia v. Pruitt*, 326 F. Supp. 3d at 1365.

II. Without a Preliminary Injunction, Plaintiffs Will Suffer Irreparable Injury

As explained in Plaintiffs' preliminary-injunction motions, Oklahoma Mot. 8-12; Associations Mot. 19-21, and further below, Plaintiffs will suffer irreparable harm without a preliminary injunction.

First, without an injunction, the WOTUS Rule will deprive Oklahoma of its sovereign authority to regulate its land and water resources. Oklahoma Mot. 8; *see North Dakota v. EPA*, 127 F. Supp. 3d at 1059 (finding irreparable harm because "the [WOTUS] Rule will irreparably diminish the States' power over their waters"); *Georgia v. Pruitt*, 326 F. Supp. 3d at 1366-67 (finding irreparable harm because "the States will lose their sovereignty over certain intrastate waters that will become subject

to the scope of the Clean Water Act."). The State of Oklahoma's "[l]oss of sovereignty is an irreparable harm." *Georgia v. Pruitt*, 326 F. Supp. 3d. at 1366-67; *see Kansas v. United States*, 249 F.3d at 1227.

Second, the WOTUS Rule is causing and will continue to cause the State of Oklahoma to incur compliance and administrative costs, both of which are monetary damages that cannot be recovered from the Agencies. Oklahoma Mot. 9-12; *id.*, McClary Dec. ¶¶ 4-10; *id.*, Patterson Dec. ¶¶ 4-6; Ex. 1, Gunter Dec. ¶ 7; Ex. 2, Chard Dec. ¶ 2-3; *see North Dakota v. EPA*, 127 F. Supp. 3d at 1048 (finding irreparable harm because the States must undertake new jurisdictional studies and bear the costs of additional Clean Water Act § 401 certifications); *Georgia v. Pruitt*, 326 F. Supp. 3d at 1367 (finding irreparable harm because the WOTUS Rule "requires States to expend resources updating the water quality goals under the CWA's Water Quality Standard program," to "expend resources in issuing additional state certifications under the Section 404 program", and "to create, process, and issue additional National Pollution Discharge Elimination System permits"). These losses are "unrecoverable economic losses … because there is neither an alternative source to replace the lost revenues nor a way to avoid the increased expenses." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1367; *see Chamber of Commerce v. Edmondson*, 594 F.3d 742, 770–71 (10th Cir.2010) ("Imposition of monetary damages that cannot later be recovered for reasons such as sovereign immunity constitutes irreparable injury.").

Third, without a preliminary injunction, the WOTUS Rule will harm landowners with definitional waters on their property, including Plaintiff NFIB's members, by forcing them to submit to expensive and time-consuming federal permitting requirements in order to conduct routine activities on their property. Associations Mot. 19-21; *see* Ex. 3, Jacobs 2019 Dec. ¶¶ 6-25; Ex. 4, Stevens Dec. ¶¶ 4-14. The Clean Water Act's reach "is 'notoriously unclear' and the consequences to landowners even for inadvertent violations can be crushing." *U.S. Army Corps of Engineers v. Hawkes Co.*, 136 S. Ct. 1807, 1816 (2016) (Kennedy, J., concurring) (quoting *Sackett v. E.P.A.*, 4566 U.S. 120,

132 (2012) (Alito, J., concurring). If landowners discharge into a "water of the United States" without a permit, "in the mistaken belief that their property did not contain jurisdictional waters, they would expose themselves to civil penalties of up to [$54,833] for each day they violated the [Clean Water] Act, to say nothing of potential criminal liability." *Id.* at 1815; *see* 40 C.F.R. § 19.4 (Feb. 6, 2019) (statutory civil penalties for violations of the Clean Water Act). They might also be subject to liability through a citizen suit by private individuals. *See Sierra Club v. El Paso Gold Mines, Inc.*, 421 F.3d 1133, 1136 (10th Cir. 2005). Landowners who believe their property may contain "waters of the United States" under the WOTUS Rule now face three options: (1) spend irrecoverable resources to determine whether their land is even covered by the WOTUS Rule; (2) assume their land is covered by the rule and so attempt to obtain the necessary permits, which will be "arduous, expensive, and long," *Hawkes*, 136 S. Ct. at 1816; or (3) simply abandon the project entirely, thus forever losing the economic benefit from such improvements. *See, e.g.,* Ex. 3, Jacobs 2019 Dec. ¶¶ 21-25. These economic losses are irrevocable. *See* Associations Mot. 21; *Chamber of Commerce*, 594 F.3d at 771; *see also Advantus, Corp. v. T2 Int'l, LLC*, 2013 WL 12122313, at *10 (M.D. Fla. 2013) ("Price erosion, loss of goodwill, damage to reputation, and loss of business opportunities are all valid grounds for finding irreparable harm."). The State of Oklahoma suffers these same harms as *parens patriae*. *See Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez*, 458 U.S. 592, 600 (1982); Ex. 1, Gunter Dec. ¶ 5-6; Ex. 2, Chard Dec. ¶ 4-6.

Fourth, Plaintiffs' harms are magnified by the geographic inconsistency in the rule's enforcement. The WOTUS Rule is in effect in Oklahoma but is *not* in effect in any of the six States bordering Oklahoma. *Supra* 6. The increased regulatory burden associated with the WOTUS Rule puts Oklahoma businesses at a competitive disadvantage with respect to other businesses in the region. As the Agencies recently told the Southern District of Texas, the WOTUS Rule's "regulatory patchwork does not serve the public interest," as it is "'complicated and inefficient for both the public and the

agencies." Federal Defendants' Response to Plaintiffs' Notices and Motion Regarding D.S.C. Decision, *Texas v. EPA*, No. 3:15-cv-162 (S.D. Tex. Aug. 22, 2018) (quoting 83 Fed. Reg. at 5,202).

These injuries are not speculative or imaginary. Plaintiffs challenge, among other things, the Agencies' assertion of jurisdiction over isolated ponds, intermittent and ephemeral streams, and wetlands that happen to lie within a 100-year floodplain, despite the fact that such waters (or more accurately, lands) lack permanency and a continuous surface connection to navigable waters. *See* Oklahoma Mot. 13-15 (citing, *inter alia*, *Rapanos v. U.S.*, 547 U.S. 715, 731-34 (plurality op.)). Since the WOTUS Rule took effect in Oklahoma in August 2018, regulated entities within Oklahoma have been the subject of regulatory actions by federal agencies, or state agencies required to implement federal programs, under the Clean Water Act for activities that should not be subject to federal regulation and should not trigger the regulatory responsibilities permit applications impose on the State.

Examples abound of the types of injuries the WOTUS Rule is causing in Oklahoma. On August 21, 2018, Oklahoma's Department of Environmental Quality (ODEQ) issued a mandatory Section 401 certification to Costco, which had to spend time and resources to seek a federal permit and state certification (and purchase mitigation credits) for a store it is constructing in Oklahoma City because there were two ephemeral streams located at the site. Chard Dec. ¶ 4; *id.* at Ex. A (permit documentation as well as photos of dry land that constitutes an "ephemeral stream"). The Whirlpool Corporation recently endured similar administrative burdens for a warehouse and distribution facility it is seeking to construct in Tulsa on a property with two ephemeral streams—for which ODEQ was required to issue a Section 401 certification on October 4, 2018. *Id.* at ¶ 5 & Ex. B. Another company, which is seeking to construct a residential subdivision in Tulsa, was the subject of a Section 401 certification on October 10, 2018 because of "unavoidable impacts to a potentially jurisdictional ephemeral stream that traverses the site interior," despite the fact that "[t]his ephemeral stream provides minimal functional value, primarily due to decreased hydrological flow and connectivity

resulting from residential and commercial development in the surrounding upstream and downstream drainage basins." *Id.* at ¶ 6 & Ex. C. The Agencies also issued a final interim jurisdictional determination on September 24, 2018, asserting jurisdiction over a real estate development in Coweta because of intermittent streams, an isolated pond, and wetlands within the 100-year floodplain of a jurisdictional water at the site. Ex. 5, KTT Jurisdictional Determination. And the vast majority of controlled animal feeding operations (CAFOs) within the State lack federal NPDES permits but, with the expanded definitions in the WOTUS Rule, are now potentially subject to hefty fines for unintentional discharges (unless they undergo the onerous permitting process). Ex. 1, Gunter Dec. The WOTUS Rule will force the State to expend resources in monitoring, enforcing, and processing permit applications. Ex. 1, Gunter Dec. ¶ 7. The likelihood that Plaintiffs will suffer irreparable injury without a preliminary injunction thus "overwhelmingly" weighs in favor of enjoining the WOTUS Rule. *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369.

III. The Balance of the Equities Favors a Preliminary Injunction

As explained in Plaintiffs' preliminary-injunction motions, Oklahoma Mot. 21-22; Associations Mot. 21-23, and further below, the balance of the equities weighs "heavily" and "overwhelmingly" in favor of enjoining the WOTUS Rule, *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369.

For Plaintiffs, "the sheer breadth of the ripple effects caused by the Rule's definitional changes counsels strongly in favor of maintaining the status quo." *In re EPA*, 803 F.3d at 808. "The harm faced by the [Plaintiffs] has already been articulated: loss of sovereignty and unrecoverable monetary losses." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369. In addition, individuals and business owners in Oklahoma will suffer immediate and irreparable injury because many will be forced to irrevocably spend resources to obtain jurisdictional determinations or delay or cancel plans to improve their properties, resulting in permanent lost value and foregone profits. *Supra* 10.

By contrast, there is no "indication that the integrity of the nation's waters will suffer imminent injury if the new scheme is not immediately implemented and enforced." *In re EPA*, 803 F.3d at 808. The harm to the Agencies of preserving the status quo as this case progresses thus "pales in comparison to the harm that the [Plaintiffs] urge." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369; *North Dakota v. EPA*, 127 F. Supp. 3d at 1059-60 (enjoining the WOTUS Rule because "[t]he risk of irreparable harm to the States is both imminent and likely" and "delaying the Rule will cause the Agencies no appreciable harm").

IV. The Public Interest Favors a Preliminary Injunction

As explained in Plaintiffs' preliminary-injunction motions, *see* Oklahoma Mot. 21-22; Associations Mot. 21-23, and further below, the public interest will be served if the WOTUS Rule is enjoined.

First, "[t]he public has no interest in the enforcement of what is very likely' an unenforceable rule." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369; *see North Dakota v. EPA*, 127 F. Supp. 3d at 1060 (a "broad[] segment of the public would benefit from the preliminary injunction because it would ensure that federal agencies do not extend their power beyond the express delegation from Congress"); *In re EPA* ("A stay honors the policy of cooperative federalism that informs the Clean Water Act and must attend the shared responsibility for safeguarding the nation's waters.").

Second, "if the WOTUS Rule becomes effective before a final decision on the merits is rendered, farmers, homeowners, and small businesses will need to devote time and expense to obtaining federal permits—all to comply with a rule that is likely to be invalidated." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369. "Were the Court not to temporarily enjoin the Rule now, it risks asking the states, their governmental subdivisions, and their citizens to expend valuable resources and time operationalizing a rule that may not survive judicial review." *Texas v. EPA*, 2018 WL 4518230, at *1 (S.D. Tex. Sept. 12, 2018). The better course is for the Court to "avoid the harmful effects of a

truncated implementation, and enjoin the Rule's effectiveness until a permanent decision regarding the Rule's constitutionality can be made." *Id.*; *In re EPA*, 803 F.3d at 808 (enjoining the WOTUS Rule "temporarily silences the whirlwind of confusion that springs from uncertainty about the requirements of the new Rule and whether they will survive legal testing").

Finally, "enjoining the WOTUS Rule will put [Oklahoma] in the same position as the [fourteen] States granted preliminary injunctive relief by the District of North Dakota," the eleven States granted preliminary injunctive relief by the Southern District of Georgia, and the three States granted preliminary injunctive relief by the Southern District of Texas, "thereby adding consistency of judicial determination as well as of the Rule's applicability." *Georgia v. Pruitt*, 326 F. Supp. 3d at 1369.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their motions for a preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on this 20th day of February, 2019, I electronically transmitted to foregoing document to the Clerk of the Court using the ECF System for filing and that all participants in this case are registered CME/CF users and service will be accomplished by the CM/ECF system.

/s/ Mithun Mansinghani