

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: CLEAN WATER ACT
RULEMAKING

No. 21-16958

D.C. Nos. 3:20-cv-04636-WHA
3:20-cv-04869-WHA
3:20-cv-06137-WHA

Northern District of California,
San Francisco

AMERICAN RIVERS; et al.,

Plaintiffs-Appellees,

ORDER

v.

ANDREW R. WHEELER; U.S.
ENVIRONMENTAL PROTECTION
AGENCY,

Defendants-Appellees,

NATIONAL HYDROPOWER
ASSOCIATION,

Intervenor-Defendant,

STATE OF ARKANSAS; et al.,

Intervenors,

and

AMERICAN PETROLEUM INSTITUTE;
INTERSTATE NATURAL GAS
ASSOCIATION OF AMERICA,

Intervenor-Defendants-
Appellants.

In re: CLEAN WATER ACT
RULEMAKING

No. 21-16960

D.C. Nos. 3:20-cv-04636-WHA
3:20-cv-04869-WHA
3:20-cv-06137-WHA

AMERICAN RIVERS; et al.,

Plaintiffs-Appellees,

v.

ANDREW R. WHEELER; U.S.
ENVIRONMENTAL PROTECTION
AGENCY,

Defendants-Appellees,

AMERICAN PETROLEUM INSTITUTE;
INTERSTATE NATURAL GAS
ASSOCIATION OF AMERICA,

Intervenor-Defendants,

STATE OF ARKANSAS; et al.,

Intervenors,

and

NATIONAL HYDROPOWER
ASSOCIATION,

Intervenor-Defendant-
Appellant.

In re: CLEAN WATER ACT
RULEMAKING

No. 21-16961

AMERICAN RIVERS; et al.,

Plaintiffs-Appellees,

STATE OF ARKANSAS; et al.,

Intervenors-Appellants,

v.

ANDREW R. WHEELER; U.S.
ENVIRONMENTAL PROTECTION
AGENCY,

Defendants-Appellees,

AMERICAN PETROLEUM INSTITUTE; et
al.,

Intervenor-Defendants.

and

STATE OF ARKANSAS; et al.,

Intervenors-Appellants,

D.C. Nos. 3:20-cv-04636-WHA
3:20-cv-04869-WHA
3:20-cv-06137-WHA

Before: CANBY, BERZON, and BENNETT, Circuit Judges.

The unopposed motion to consolidate these appeals (Docket Entry No. 32 in 21-16958) is granted. Appeal Nos. 21-16958, 21-16960, and 21-16961 are consolidated.

The motions for a stay of the challenged district court order pending these appeals (Docket Entry No. 20 in 21-16958; Docket Entry No. 14 in 21-16960; Docket Entry No. 26 in 21-16961) are denied. *See Nken v. Holder*, 556 U.S. 418, 434 (2009); *Doe #1 v. Trump*, 957 F.3d 1050, 1058 (9th Cir. 2020). Appellants do not demonstrate a sufficient likelihood of irreparable harm to warrant the requested relief.

The motions to dismiss these appeals for lack of jurisdiction (Docket Entry Nos. 27 and 33 in 21-16958) are denied without prejudice to renewing the arguments in the answering brief(s). *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The opening brief(s) and excerpts of record are due April 6, 2022. The answering brief(s) are due May 6, 2022. The optional reply brief(s) are due within 21 days after service of the last-served answering brief. All parties on a side are encouraged to join in a single brief to the extent practicable. *See* 9th Cir. R. 32-2 circuit advisory committee note.