



U.S. Department of Justice

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VIA Messenger

August 18, 2003

Mark J. Langer, Clerk
United States Court of Appeals
for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Ave., N.W.
5th Floor
Washington, D.C. 20001-2866

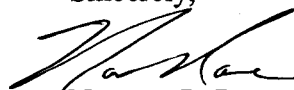
Re: American Farm Bureau Federation v. Horinko, No. 00-1320 and consolidated cases

Dear Mr. Langer:

Enclosed for filing in the above-captioned cases are an original and four copies of Respondent EPA's Motion to Dismiss as Moot.

I also enclose an additional copy that I request that you date-stamp and return to me with our messenger. Thank you for your assistance.

Sincerely,


Norman L. Rave, Jr
Trial Attorney

Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulation,” published in the Federal Register at 65 Fed. Reg. 43,586 (July 13, 2000) (“July 2000 TMDL rule”). On July 16, 2001, EPA moved the Court to hold this case in abeyance, explaining that the Agency intended to delay the effective date of the rule and to engage in a process to reconsider the rule. EPA’s motion was granted by the Court’s Order of October 12, 2001.

On March 13, 2003, the then EPA Administrator Christine Todd Whitman signed a final rule withdrawing the July 2000 TMDL rule, which was published in the Federal Register on March 19, 2003. 68 Fed. Reg. 13,608. Because that action was potentially subject to judicial review, EPA moved to continue to hold this case in abeyance until August 18, 2003, to allow the time for the filing of petitions for review to pass. The Court granted that motion by Order dated May 8, 2003. No petitions for review of EPA’s action withdrawing the July 2000 TMDL rule have been filed.

Accordingly, EPA hereby moves to dismiss this case as moot. The rule that is the subject of this action never went into effect and has now been withdrawn. Thus the rule has never had any legal effect and can have no future legal effect. Accordingly, the case is moot and should be dismissed.

Respectfully submitted,

THOMAS L. SANSONETTI
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August 18, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2003, I caused a copy of the foregoing Motion to Dismiss as Moot to be served by first class mail, postage prepaid, on:

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