BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In re	)	
	)	
Clean Water Rule:	)	MDL No. 2663
Definition of "Waters of the United States"	)	
	)	
	)	

STATE OF OKLAHOMA'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO TRANSFER AND CONSOLIDATE

Pursuant to Rule 6.1 of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation (the "Panel" or "JPML"), the State of Oklahoma submits this response in opposition to Defendants' Motion for Transfer and Consolidation of Actions and their Brief in support ("Transfer Motion").

Introduction

The United States seeks to transfer and consolidate in the district court for the District of Columbia ten cases raising straightforward questions of law. When the United States filed their motion, no case was pending in the District of Columbia, so the United States' decision to seek transfer to that district certainly is not based on there being a case further along in that district, or a judge more familiar with the issues. No, the United States seeks transfer to that district because they believe they will receive a more favorable result there, on their home turf.

Transfer under 28 U.S.C. § 1407 requires more, however, than just mere desire to gain a litigation advantage (whether real or imagined). Cognizant of this, the United States manufactures issues of fact, and even goes so far as to claim that consolidation will be "convenient for the parties" and that non-consolidation would result in a "significant burden on the United States." None of this is true.

First, the cases will not involve any "significantly complex" factual determinations. Rather, the States and private plaintiffs challenge the validity of the Final Rule under the APA, bringing facial challenges that will be decided on the text of the Clean Water Act and the Constitution. Indeed, all parties agree that it is "highly unlikely that there will be discovery" in this litigation. *See* Transfer Mot. 6, 9. Further, even though challenges to standing often involve factual issues, here it is clear that the States have standing as a matter of law. And even if a court needed to look at the facts supporting each plaintiffs' standing, that inquiry would necessarily be individualized and localized—there simply isn't anything to be gained by requiring a single court to analyze the standing of ten distinct groups of plaintiffs.

Second, transfer of the ten groups of plaintiffs will burden those plaintiffs, not convenience them. Plaintiffs across the country—including over thirty States or State entities in five separate actions—have filed challenges to the Final Rule. None of these States have offices in the District of Columbia. The United States, however, has offices full of attorneys in every state where an action is pending. Surely the burden of traveling to a distant forum in order to defend their sovereign rights is not "necessary to achieve efficiencies and promote justice" so as to justify "centralization outside the plaintiffs' original choice of forum." *See In re: UBS Financial Services, Inc., Wage and Hour Employment Practices Litig.*, 818 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011). This is especially true since the challenges raise "nearly identical claims" and are "based on the same administrative record." Transfer Mot. 9. Nor will it be difficult for the United States to file the same or substantially similar briefs in each of the cases, just as it has done in the proceedings leading up to this Transfer Motion.

Lastly, even if transfer and consolidation were appropriate (it isn't), the District of Columbia is hardly the best district. The Southern District of Georgia, for example, would be a vastly more appropriate forum because the Georgia litigation is procedurally farther along than any other litigation, and the presiding judge—Chief Judge Lisa Wood—has already been briefed and heard

oral argument on plaintiffs' motion for a preliminary injunction, a motion still pending before her. Chief Judge Wood has therefore devoted substantial resources to the case and is intimately familiar with the issues to be raised by the parties.

Background

On June 29, 2015, the United States Environmental Protection Agency ("EPA") and the United States Army Corps of Engineers ("Corps") (collectively "Agencies," "Defendants," or "United States") published the *Clean Water Rule: Definition of "Waters of the United States,"* 80 Fed. Reg. 37,054 ("Final Rule"). This Final Rule expands federal jurisdiction under the Clean Water Act ("CWA") by redefining the "waters of the United States" to include many new categories of waters subject to regulation under the CWA. Between June 29, 2015 and July 15, 2015, plaintiffs across the country filed ten lawsuits in eight district courts alleging that in promulgating the Final Rule the Agencies had exceeded their authority under the CWA, the Commerce Clause, the Tenth Amendment, and the Administrative Procedure Act.

Because the effective date of the Final Rule is imminent, plaintiffs in several cases quickly filed motions for a preliminary injunction. *See Oklahoma v. EPA*, No. 15-381 (N.D. Okla.); *Georgia v. McCarthy*, No. 15-79 (S.D. Ga.); *Chamber of Commerce v. EPA*, No. 15-386 (N.D. Okla.). While no court has yet ruled on these motions, the motion before Chief Judge Lisa Godbey Wood in the Southern District of Georgia has been fully briefed and argued, making it the most procedurally advanced. *See Georgia*, No. 15-79 (S.D. Ga.).

On July 27, 2015, the United States filed a motion with this Panel to transfer and consolidate these ten cases in the District Court for the District of Columbia ("D.D.C."). Although no case had been filed in the D.D.C. at the time, the United States informed the Court that it knew that additional plaintiffs would soon be filing a similar action there. *See* Transfer Mot. 4. Several weeks later, on August 14, 2015, the Natural Resource Defense Council ("NRDC") and three other

environmental groups brought a challenge to the Final Rule in the D.D.C. *See NRDC v. EPA*, No. 15-1324 (D.D.C.). Unlike every other lawsuit concerning the Final Rule filed to date, the plaintiffs in the D.D.C. case claimed that the Final Rule improperly protects *fewer* waters than required by the CWA.

Argument

28 U.S.C. § 1407 allows transfer of "civil actions involving one or more common questions of fact" when doing so would be "for the convenience of parties and witnesses" and would "promote the just and efficient conduct of such actions." There are numerous advantages for Defendants in seeking a Section 1407 transfer. These include the opportunity to interdict plaintiff's choice of forum, to obtain a more favorable judge, and to move the case to Defendants' backyard. *See* Roger J. Magnuson, Shareholder Litigation § 20:6 (2015) (internal citations omitted). Because these advantages often come at the expense of other parties (and especially plaintiffs), the moving party bears the burden of demonstrating the need for transfer and consolidation. *See In re Best Buy Co.*, 804 F. Supp. 2d 1376, 1379 (J.P.M.L. 2011) (denying transfer and consolidation because "the proponents of centralization have not met their burden of demonstrating the need for centralization"). Defendants fail to carry this heavy burden.

As discussed below, the purposes of Section 1407 are not served by moving these ten cases to the D.D.C. There are no common questions of fact present in this litigation, centralization in the D.D.C. will not increase the convenience of the parties and witnesses, and it is not necessary to achieve judicial efficiency.

I. The challenge to the Final Rule presents a straightforward question of statutory interpretation.

In order to qualify for consideration under Section 1407, the actions must share common issues of fact. 28 U.S.C. § 1407(a). These common factual issues must be "sufficiently complex." *See In re Multidistrict Private Civil Treble Damage Antitrust Litig. Involving IBM*, 302 F. Supp. 796 (J.P.M.L.

1969); *In re Homemakers Franchise Litig.*, 337 F. Supp. 1342, 1343-44 (J.P.M.L. 1972) (a few common questions of fact, unless "sufficiently complex," do not require transfer under Section 1407).

A. The cases involve no "sufficiently complex" factual determinations.

Defendants go to great lengths to manufacture factual issues for this Panel's consideration—even while admitting that "the pending actions do not require discovery or other factual development with respect to the merits of plaintiffs' claims" and that such discovery is therefore "highly unlikely." Transfer Mot. 6, 9. Because they must recognize that there will be no discovery in this case, the United States offers up three areas where "factual issues" might be presented: (1) with respect to the sufficiency of the evidence relied upon by the EPA and Corps in promulgating the Final Rule, (2) with respect to the Agencies' failure to respond to some plaintiffs' comments, and (3) with respect to the insufficient notice to the public of certain parts of the Final Rule.[1] Transfer Mot. 5-6. However, all of these are merely legal issues dressed up as factual disputes, and none of them are sufficient to support transfer under Section 1407.

First, there are no disputed "common *questions of fact*" here that would need to be resolved by the Panel. 28 U.S.C. § 1407(a) (emphasis added). This is so because, as Defendants admit, this case is governed entirely by the administrative record. *See* Transfer Mot. 6, 9. There should not be "duplicative and burdensome discovery" as discovery in this action is unnecessary. *In re Medi-Cal Reimbursement Rate Reduction Litig.*, 652 F. Supp. 2d 1378 (J.P.M.L. 2009); *see also Nw. Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18 F.3d 1468, 1472 (9th Cir. 1994) ("[T]his case involves review of a final agency determination under the [APA]; therefore, resolution of th[e] matter does not require fact finding on behalf of this court. Rather, the court's review is limited to the administrative record.").

[1] Oklahoma did not raise a claim asserting the Agencies' failure to address the State's filed comments. The United States' second justification is therefore inapplicable as to Oklahoma.

Knowing that "[t]he presence of common issues of law has no effect on transfer: it is neither a necessary nor sufficient condition for transfer," the United States strains to recast these legal issues as factual ones. *See* David F. Herr, Multidistrict Litigation Manual: Practice Before the Judicial Panel on Multidistrict Litigation § 5.4 (2015). But "where the issues in a case are primarily legal in nature, even though some fact issues may exist, the Panel is nearly certain to conclude that transfer is not appropriate." *Id.*; *see, e.g.*, *In re Medi-Cal Reimbursement Rate*, 652 F. Supp. 2d at 1378 (denying transfer and consolidation where the actions "by and large, raise strictly legal issues"); *In re Real Estate Transfer Tax Litig.*, 895 F. Supp. 2d 1350 (J.P.M.L. 2012) (denying transfer and consolidation because the dispute involves "primarily a *legal* question—*i.e.*, are the [parties] statutorily exempt from liability for real estate transfer taxes") (emphasis in original); *In re Nat'l Ass'n for Advancement of Multi-jurisdiction Practice Litig.*, 52 F. Supp. 3d 1377, 1378 (J.P.M.L. 2014) ("While each action focuses on the constitutionality of restrictions on attorney admission contained in each court's local rules these common legal questions are insufficient to satisfy Section 1407's requirement of common factual questions."); *In re EPA Pesticide Listing*, 434 F. Supp. 1235, 1236 (J.P.M.L. 1977) (denying transfer and consolidation because "the predominant, and perhaps only, common aspect in these actions is a legal question of statutory interpretation").

The United States also cites a seemingly favorable statement made by the D.C. Circuit saying that district courts "regularly resolve factual issues regarding the process the agency used in reaching its decision." Transfer Mot. 6 (quoting *James Madison Ltd. v. Ludwig*, 82 F.3d 1085, 1096 (D.C. Cir. 1996)). However the United States omits the D.C. Circuit's preceding statement which affirms that "[g]enerally speaking, district courts reviewing agency action under the APA's arbitrary and capricious standard do not resolve factual issues, but operate instead as appellate courts resolving legal questions." *James Madison Ltd.*, 82 F.3d at 1096. And that it is only "occasionally" that an issue is raised that "may" require a district court to engage in independent fact-finding. *Id.*

Indeed the Panel denied a similar transfer and consolidation motion filed by the United States just two months ago stating that "the resolution of these actions will involve only very limited pretrial proceedings. Discovery, if any, will be minimal, as these cases will be decided on the administrative record. And motion practice will consist of motions regarding that record and summary judgment motions or petitions for review." *In re Lesser Prairie-Chicken Endangered Species Act Litig.* 2015 WL 3654675 * 1 (J.P.M.L. June 9, 2015). Such is the case here.

B. The States have standing as a matter of law, therefore no factual determination will need to be made as to the State Plaintiffs' standing.

A determination of standing for the State plaintiffs will not require a factual analysis because the States have standing as a matter of law. The Final Rule deprives Oklahoma of its authority to regulate land and water resources, interfering with its "sovereign interests and public policies." When a State's "sovereign interests and public policies" are at stake, the harm the State stands to suffer is irreparable. *Kansas v. United States*, 249 F.3d 1213, 1227 (10th Cir. 2001) (finding that interference with sovereign status is "sufficient to establish irreparable harm."). *See also Wyandotte Nation v. Sebelius*, 443 F.3d 1247, 1255 (10th Cir. 2006); *Seneca-Cayuga Tribe of Okla. v. Oklahoma*, 874 F.2d 709, 716 (10th Cir. 1989).

The Agencies have admitted as much by acknowledging an increase in federal jurisdiction under the Final Rule. See U.S. Envtl. Prot. Agency & U.S. Dep't of the Army, Economic Analysis of the EPA-Army Clean Water Rule (May 2015) at 12–13 ("Economic Analysis") (recognizing that had the Final Rule been in place during fiscal years 2013 and 2014, an additional 2.84 to 4.65 percent of "waters" nationwide would have been subject to federal jurisdiction); *see also* Press Release, House Committee on Science, Space & Technology, Smith: Maps Show EPA Land Grab, Aug. 27, 2014 (identifying more than 8.1 million miles of rivers and streams across the 50 States that could be identified as new "waters of the United States"). An increase in federal jurisdiction over certain waters necessarily means that the State's sovereignty over those waters has been diminished. Because

the Final Rule will unquestionably limit the ability of the State to set its own policy over intrastate land and water use, the Agencies have interfered with the sovereign interests of the State and have caused Oklahoma to suffer irreparable harm.

Further, even if a court was called upon to consider facts regarding a plaintiff's standing, such an analysis would be individualized as to each of the plaintiffs. The court would have to evaluate each plaintiff's standing for each claim, because "standing is not dispensed in gross." *Fontenot v. McCraw*, 777 F.3d 741, 746 (5th Cir. 2015) (citing *Lewis v. Casey,* 518 U.S. 343, 358 n. 6 (1996)). Thus, there is no judicial efficiency in consolidating these cases within one court merely to determine whether the plaintiffs have standing to raise these claims.

C. These cases are very different from those typically transferred and consolidated under Section 1407.

Additionally, these cases are unlike those typically transferred and consolidated by the JPML. *See* 15 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 3861 (4th ed.) (noting that the MDL statute grew out of courts' experience dealing with cases of "great[] complexity," such as those following a successful criminal antitrust prosecution of electrical equipment manufacturers involving "more than 1,800 civil damage actions in thirty-three federal districts"). It is no surprise, then, that Defendants cite only one case in which the Panel transferred and consolidated an even remotely similar challenge. That case is *In re Polar Bear Endangered Species Act Listing & 4(d) Rule Litig.*, 794 F. Supp. 2d 65, 78 (D.D.C. 2011).

In *In re Polar Bear Litigation* the MDL court addressed actions challenging the Fish and Wildlife Service's decision to list the polar bear as threatened under the Endangered Species Act. But even in granting that motion to transfer and consolidate the Panel recognized that "[t]his group of cases is unlike many others that the panel routinely encounters." *Id.* at 1377. Further, *In re Polar Bear Litigation* is easily distinguishable because most of the parties in that case supported transfer and consolidation. *See id.* It is Oklahoma's understanding that many of the plaintiffs in these cases—and

indeed all of the States—oppose the United States' Transfer Motion. This too supports denying the motion to transfer and consolidate. *See* Wright & Miller § 3863 ("[W]hen most or all of the nonmoving parties are opposed to MDL transfer, the Panel will probably deny the motion, especially if no nonmoving party supports consolidation."); *see, e.g.*, *In re Property Assessed Clean Energy (Pace) Programs Litig.*, 764 F. Supp. 2d 1345, 1347 (J.P.M.L. 2009) (denying centralization in part because "the bulk of the parties—plaintiffs in all actions—oppose centralization").

II. Transfer to the District of Columbia will inconvenience many plaintiffs and witnesses and will not promote judicial efficiency.

The Panel often refuses to order transfer, despite convenience benefits to some defendants, where the transfer would impose inconvenience burdens on the plaintiffs. *In re Galveston, Tex. Oil Well Platform Disaster*, 322 F. Supp. 1405, 1407 (J.P.M.L. 1971). The Panel has "an institutional responsibility that goes beyond accommodating the particular wishes of the parties." *In re: UBS Financial Services Litig.*, 818 F. Supp. 2d at 1381. In this role, the Panel considers "whether centralization outside the plaintiffs' original choice of forum is *necessary* to achieve efficiencies and promote justice." *Id.* (emphasis added).

The Defendants urge the Panel to consolidate and transfer these cases to a forum where—up until 5 days ago—no plaintiffs had filed their challenge. While the United States notes that some of the private plaintiffs challenging the Final Rule maintain offices in the District of Columbia, it is fair to assume that none of the State plaintiffs do. Indeed half of the cases that have been filed were brought by States or State entities making up over thirty plaintiffs. It would be extremely inconvenient to require the State plaintiffs to travel to a distant forum in order to litigate on behalf of their sovereign rights.

Further, the fact that Defendants reside in the District of Columbia is not a persuasive reason for transfer. *See* Transfer Mot. 15. The Defendants named in the lawsuit are named in their official capacity only. They will not be called to testify or appear before the Court. And it cannot

even be said that there will be a burden on the Department of Justice to leave the cases where they are because the DOJ has a nationwide presence. Each district in which a plaintiff has filed is also home to a United States Attorney's office. Thus, there will be little or no travel expense for any of the local counsel. *See In re U.S. Postal Service Privacy Act Litigation*, 545 F. Supp. 2d 1367, 1369 (J.P.M.L. 2008) ("While the District of Columbia would no doubt also be an appropriate forum, centralization in the Western District of Washington gives due credit to plaintiffs' choice of forum and will not inconvenience USPS, which has a nationwide presence."). The United States clearly has the resources to litigate in all 50 States. Indeed, Congress specifically adopted 28 U.S.C. § 1391(e)—giving plaintiffs the ability to bring these actions against these federal officers—in order to "provide nationwide venue for the convenience of individual plaintiffs in actions which are nominally against an individual officer but are in reality against the Government." *Stafford v. Briggs*, 444 U.S. 527, 542 (1980).

The United States claims it will face a "significant burden" if required to "litigate pretrial proceedings simultaneously in eight or more district courts scattered across the country." Transfer Mot. 10. This supposed burden is overstated. As the United States has previously acknowledged, these cases "raise[] nearly identical claims" and are "based on the same administrative record." Transfer Mot. 9. Aside from the administrative effort required to file separate (but substantially identical) papers in eight district courts, it is difficult to see how the United States will be burdened by having to litigate these legal arguments in different courts. Indeed, the United States' stay motions in the various districts were almost identical. *Compare, e.g.*, *Georgia*, No. 15-79 (S.D. Ga. July 21, 2015) (Doc. 34-1), *with Oklahoma*, No. 15-cv-386 (N.D. Okla. July 20, 2015) (Doc. 14).

The United States' argument that transfer and consolidation is necessary to avoid "the possibility of inconsistent decisions" is similarly unpersuasive. Transfer Mot. 10. As the Panel has stated, requesting transfer and consolidation "[m]erely to avoid [different] federal courts having to

decide the same issue" is insufficient. *In re Medi-Cal*, 652 F. Supp. 2d at 1378; *see also In re Multijurisdiction Practice Litig.*, 52 F. Supp. 3d at 1378 ("Although plaintiffs seek efficiencies through centralized treatment of the disputed legal questions, [m]erely to avoid [different] federal courts having to decide the same issue is, by itself, usually not sufficient to justify Section 1407 centralization."). And it makes sense to allow different federal courts to decide the same legal issues because "allowing litigation in multiple forums" fosters "thorough development of legal doctrine." *United States v. Mendoza*, 464 U.S. 154, 163 (1984). Further, the Panel should be cautious about granting the United States' motion here because Defendants' reasoning regarding avoidance of inconsistent rulings on purely legal issues would extend to *every* type of APA challenge.

In support of their theory, the United States cites *In re Operation of the Mo. River Sys. Litig.*, 277 F. Supp. 2d 1378 (J.P.M.L. 2003), and *In re Tri-State Water Rights Litig.*, 481 F. Supp. 2d 1351 (J.P.M.L. 2007). But in those cases, the Panel was confronted with litigation involving a challenge to Agency action taken at specific, centralized locations—the Missouri River and the Apalachicola-Chattahoochee-Flint River basin. Unlike those cases, the challenges here involve challenges to a Final Rule with nation-wide application. Therefore there is no risk that the Agencies will have to implement inconsistent pretrial rulings as to a specific dam or reservoir system as was the case in *In re Tri-State Water Rights Litigation* and *In re Operation of Missouri River System Litigation*.

III. Should the Panel decide to consolidate and transfer these actions—and it should not—the Southern District of Georgia would be a more appropriate forum.

Because there are no sufficiently complex common questions of fact and transfer is not necessary for the convenience of the parties and judicial efficiency, this Panel should not transfer and consolidate these actions. However, should the Panel decide to consolidate and transfer these actions it should transfer to district most familiar with the issues. The Southern District of Georgia provides a more appropriate forum than the D.D.C.

When contemplating the most appropriate forum, the Panel considers where the litigation is most procedurally advanced. *See In re U.S. Postal Service Privacy Act Litig.*, 545 F. Supp. 2d at 1369 ("We are persuaded that the Western District of Washington, where the earliest filed action is pending, is an appropriate forum for this litigation."). The litigation brought in the Southern District of Georgia was one of the first filed lawsuits. *See Georgia*, No. 15-79 (S.D. Ga. June 30, 2015). As a result, the *Georgia* case is the most procedurally advanced case challenging the Final Rule, with Chief Judge Lisa G. Wood having ordered an expedited briefing and hearing schedule on the plaintiffs' motion for a preliminary injunction. This weighs heavily in favor of consolidating within that court. *See In re L'oreal Wrinkle Cream Mktg. & Sales Practices Litig.*, 908 F. Supp. 2d 1381 (J.P.M.L. 2012) (consolidating actions in the District of New Jersey because although "[a]ll actions were filed within a short time period, … the action pending in this district is slightly more procedurally advanced").

Because the parties in *Georgia* have fully briefed and argued the motion for preliminary injunction in front of Chief Judge Wood who has thus devoted substantial resources to the case and is intimately familiar with many of the issues that will be presented in this case.[2] *In re L.E. Lay & Co. Antitrust Litig.*, No. 187, 1975 WL 1004, at *1 (J.P.M.L. Feb. 10, 1975). Indeed because the plaintiffs' motion for a preliminary injunction is still under consideration, that litigation should be left alone. *See id.* ("Furthermore, on principles of comity, we are reluctant to transfer any action that has an important motion under submission with a court. Since movant has a motion for a preliminary injunction *sub judice* in the Texas action, our selection of the Eastern District of Texas as the transferee district for this litigation allows the Texas court to rule on this motion and at the same

[2] If Chief Judge Wood rules on the motion for preliminary injunction before this Court decides to transfer, a ruling would not preclude this Court from selecting Chief Judge Wood as the transferee judge. *See In re: Tyson Foods, Inc. Chicken Raised Without Antibiotics Consumer Litigation*, 582 F. Supp. 2d 1378, 1379 (J.P.M.L. 2008) ("The mere fact that a judge has issued a prior ruling unfavorable to a particular party involved in Section 1407 proceedings provides no basis, without more, for disqualifying that judge from consideration for assignment of an MDL docket involving the same or similar issues.").

time permits the parties to gain the benefits from coordinated or consolidated pretrial proceedings.").

Chief Judge Wood is more than qualified to adjudicate the validity of the Final Rule and has experience in hearing cases regarding the Clean Water Act. *See, e.g.*, *Jones Creek Investors, LLC v. Columbia Cty., Ga.*, 2015 WL 1541409 (S.D. Ga. Mar. 31, 2015); *Altamaha Riverkeeper, Inc. v. Rayonier, Inc.*, 2015 WL 1505971 (S.D. Ga. Mar. 31, 2015); *United States v. St Mary's Railway West, LLC*, 989 F. Supp. 2d 1357 (S.D. Ga. 2013). There are currently no MDL proceedings pending before her. Consolidation with that court would therefore "permit the Panel to assign the litigation to a less-utilized district with an experienced judge who is not presently overseeing a multidistrict litigation." *In re Simply Orange Orange Juice Mktg. & Sales Practices Litig.*, 867 F. Supp. 2d 1344, 1345-46 (J.P.M.L. 2012); *see also In re Horizon Organic Milk Plus DHA Omega-3 Mktg. & Sales Practices Litig.*, 844 F. Supp. 2d 1380, 1381 (J.P.M.L. 2012).

For these reasons, "the Southern District of Georgia is an appropriate transferee district for this litigation" since the "Georgia action is proceeding well, and the Georgia district has the capacity to handle this litigation." *See In re Novastar Home Mortgage Inc. Mortgage Lending Practices Litig.*, 368 F. Supp. 2d 1353, 1354 (J.P.M.L. 2005).

Conclusion

Based on the foregoing, the United States motion to transfer and consolidate should be denied. Alternatively, if centralization is to be ordered it should occur in the Southern District of Georgia.

CERTIFICATE OF SERVICE

Pursuant to Rule 4.1(a), this will certify that the foregoing was filed electronically on August 19, 2015. This filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: August 19, 2015

s/P. Clayton Eubanks
Deputy Solicitor General
Office of the Attorney General, State of Oklahoma
Oklahoma City, OK 73105
(405) 522-8992 – Telephone
(405) 522-0085 – Facsimile
Attorney for Plaintiff State of Oklahoma

I further certify that on August 19, 2015, a true and correct copy of the foregoing was forwarded to the following counsel via first class mail.

Eugene P. Holmes
23507 Royalton Road
Columbia Station, OH 44028

Dated: August 19, 2015

s/P. Clayton Eubanks
Deputy Solicitor General
Office of the Attorney General, State of Oklahoma
Oklahoma City, OK 73105
(405) 522-8992 – Telephone
(405) 522-0085 – Facsimile
Attorney for Plaintiff State of Oklahoma