

Nos. 15-3751 /3799/ 3817/3820/ 3822/ 3823/ 3831/3837/ 3839/ 3850/ 3853/  
3858/3885/3887/3948/4159/4162/4188/4211/4234/4305/4404

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Apr 21, 2016  
DEBORAH S. HUNT, Clerk

In re: UNITED STATES DEPARTMENT OF DEFENSE AND  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
FINAL RULE: CLEAN WATER RULE: DEFINITION OF  
"WATERS OF THE UNITED STATES," 80 FED. REG. 37,054  
(JUNE 29, 2015).

MURRAY ENERGY CORPORATION (15-3751); STATE OF  
OHIO, et al. (15-3799); NATIONAL WILDLIFE  
FEDERATION (15-3817); NATURAL RESOURCES DEFENSE  
COUNCIL, INC. (15-3820); STATE OF OKLAHOMA (15-  
3822); CHAMBER OF COMMERCE OF THE UNITED STATES  
OF AMERICA, et al. (15-3823); STATE OF NORTH  
DAKOTA, et al. (15-3831); WATERKEEPER ALLIANCE  
INC., et al. (15-3837); PUGET SOUNDKEEPER ALLIANCE,  
et al. (15-3839); AMERICAN FARM BUREAU FEDERATION,  
et al. (15-3850); STATE OF TEXAS, et al. (15-3853); UTILITY WATER ACT GROUP  
(15-3858); SOUTHEASTERN LEGAL FOUNDATION, INC., et al. (15-3885); STATE  
OF GEORGIA, et al. (15-3887); ONE HUNDRED MILES, et al. (15-3948);  
SOUTHEAST STORMWATER ASSOCIATION, INC., et al. (15-4159); MICHIGAN  
FARM BUREAU (15-4162); WASHINGTON CATTLEMEN'S ASSOCIATION (15-  
4188); ASSOCIATION OF AMERICAN RAILROADS, et al. (15-4211); TEXAS  
ALLIANCE FOR RESPONSIBLE GROWTH, ENVIRONMENT, AND  
TRANSPORTATION (15-4234); AMERICAN EXPLORATION & MINING  
ASSOCIATION (15-4305); ARIZONA MINING ASSOCIATION, et al. (15-4404),

*Petitioners,*

v.

UNITED STATES DEPARTMENT OF DEFENSE, DEPARTMENT  
OF THE ARMY CORPS OF ENGINEERS and UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY, et al.,

*Respondents.*

**BEFORE:** KEITH, McKEAGUE, and GRIFFIN, Circuit Judges.

The court received six petitions for rehearing en banc. The original panel has reviewed the petitions for rehearing and concludes that the issues raised in the petitions were fully considered upon the original submission and decision of the cases. The petitions then were circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petitions are denied. Judge Keith would grant rehearing for the reasons stated in his dissent.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Deborah S. Hunt  
Clerk

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: April 21, 2016

Mr. Timothy S. Bishop  
Ms. Kristy A. N. Bulleit  
Mr. Warren W. Harris  
Mr. M. Reed Hopper  
Mr. Paul Martin Seby  
Ms. Jennifer Anne Simon

Re: Case No. 15-3751, et al.  
*In re: Murray Energy Corporation v. EPA, et al*  
Originating Case No. : EPA-HQ-OW-2011-0880

Dear Counsel,

The Court issued the enclosed Order today in these cases.

Sincerely yours,

s/Beverly L. Harris  
En Banc Coordinator  
Direct Dial No. 513-564-7077

cc: Ms. Loren L. AliKhan  
Mr. Andrew B. Ayers  
Mr. Philip Bein  
Ms. Lorelei M Bensel  
Mr. Adam Franklin Blalock  
Mr. Daniel Paul Bock  
Mr. Edward Grant Bohlen  
Mr. Andrew Lynn Brasher  
Ms. Janette K. Brimmer  
Mr. Craig A. Bromby  
Ms. Karma B. Brown  
Mr. John J. Bursch  
Mr. Jeffrey A. Chanay  
Ms. Jennifer C. Chavez  
Mr. David William Childs  
Mr. Douglas M. Conde  
Mr. John Michael Connolly  
Mr. William Spencer Consovoy  
Mr. Christopher Kaltman DeScherer

Ms. Amy J. Dona  
Mr. Parker Douglas  
Mr. Andrew J. Doyle  
Mr. P. Clayton Eubanks  
Ms. Jamie Leigh Ewing  
Mr. Thomas Molnar Fisher  
Mr. Paul Garrahan  
Mr. Kevin A. Gaynor  
Mr. Jonathan A Glogau  
Ms. Britt C. Grant  
Ms. Sarah A. Greenwalt  
Mr. Burke W. Griggs  
Mr. Joel Mitchell Gross  
Mr. Dara Andrew Hall  
Mr. Sam M Hayes  
Ms. Kimberly S. Hermann  
Ms. Megan Hinkle  
Mr. Andrew J. Hirth  
Mr. Richard A. Horder  
Mr. Mohammad O Jazil  
Mr. Steven Beauregard Jones  
Mr. Alan L. Joscelyn  
Mr. James Kaste  
Ms. Lara Katz  
Mr. Scott Allen Keller  
Mr. Duncan Stuart Kemp IV  
Mr. Michael B. Kimberly  
Mr. Scot L. Kline  
Mr. Justin D. Lavene  
Mr. Ronald Lavigne  
Mr. Steven J. Lechner  
Mr. Elbert Lin  
Mr. Benjamin S. Lippard  
Mr. Jon Michael Lipshultz  
Mr. John R. Lopez IV  
Ms. Martha Mann  
Mr. S. Peter Manning  
Mr. Jeremy C Marwell  
Ms. Elizabeth P. McCarter  
Ms. Kerry L. McGrath  
Mr. Charles David McGuigan  
Mr. John K. McManus  
Mr. Matthew Bryan Miller  
Mr. Eric E. Murphy  
Mr. Joseph Anthony Newberg  
Ms. Jessica O'Donnell  
Ms. Margaret I. Olson  
Mr. Christopher Dominic Peloso  
Ms. Lee Ann Rabe  
Mr. Peter T. Reed  
Mr. Craig W. Richards  
Mr. Gregory C. Ridgley  
Mr. John Quentin Melcher Riegel  
Ms. Kirsten S. P. Rigney  
Mr. David Ross  
Mr. Lowell Mark Rothschild

Mr. James N. Saul  
Mr. Matthias L. Sayer  
Mr. Seth Schofield  
Ms. Deborah Ann Sivas  
Mr. Brooks Meredith Smith  
Mr. James Emory Smith Jr.  
Ms. Jennifer Ann Sorenson  
Mr. Wayne K. Stenehjem  
Ms. Alicia E. Thesing  
Mr. Misha Tseytlin  
Mr. Andrew Turner  
Mr. Lawrence VanDyke  
Ms. Jennifer L. Verleger  
Ms. Catherine Wannamaker  
Mr. Justin T. Wong  
Ms. Mary Jo Woods  
Mr. Frederick Richard Yarger  
Ms. Tamara Zakim

Enclosure