

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:07-CV-45-BO

DEFENDERS OF WILDLIFE, <u>et al.</u> ,)	FEDERAL DEFENDANTS' ANSWER TO
)	AMENDED COMPLAINT
Plaintiffs,)	
)	
v.)	
)	
NATIONAL PARK SERVICE, <u>et al.</u> ,)	
)	
Defendants,)	
)	
DARE COUNTY, <u>et al.</u> ,)	
)	
Defendant-Intervenor-)	
Applicants.)	

Defendants, the National Park Service ("NPS"); the United States Fish and Wildlife Service ("FWS"); the United States Department of Interior ("DOI"); Dirk Kempthorne, Secretary of the Interior; Mary A. Bomar, Director of NPS; H. Dale Hall, Director of FWS; and Michael B. Murray, Superintendent of Cape Hatteras National Seashore ("Seashore"), (hereinafter "Federal Defendants," collectively), by and through their undersigned counsel, hereby answer Plaintiffs' Amended Complaint as follows:

1. The allegations contained in the first and second sentences of paragraph 1 constitute conclusions of law and Plaintiffs' characterization of their lawsuit to which no response is required; to the extent they may be deemed allegations of fact, they are denied. Admit the allegations contained in

- the third sentence of paragraph 1.
2. Admit the allegations in the first and second sentences of paragraph 2. The allegations contained in the remainder of paragraph 2 are too vague and ambiguous to permit a response and, on that basis, are denied.
 3. Deny the allegations of paragraph 3.
 4. The allegations contained in paragraph 4 contain legal conclusions to which no response is required; to the extent these allegations are deemed factual, they are denied.
 5. This paragraph consists of statements of jurisdiction to which no responsive pleading is required.
 6. This paragraph consists of an allegation of venue to which no response is required.
 7. Deny the allegations contained in paragraph 7 for lack of knowledge or information sufficient to form a belief as to their truth.
 8. Deny the allegations contained in paragraph 8 for lack of knowledge or information sufficient to form a belief as to their truth.
 9. Deny the allegations contained in paragraph 9 for lack of knowledge or information sufficient to form a belief as to their truth.
 10. Deny the allegations contained in the first, second, and fourth sentences of paragraph 10 for lack of knowledge or

information sufficient to form a belief as to their truth.

The allegations contained in the third sentence of paragraph 10 are too vague and ambiguous to permit a response and, on that basis, are denied.

11. Admit the allegations contained in the first sentence of paragraph 11 that "Defenders . . . participat[ed] in the environmental review process for the interim plan, and prepar[ed] and submitt[ed] comments on the . . . Environmental Assessment;" deny the remainder of the allegations contained in the first sentence of paragraph 11. Admit the allegations in the second sentence.
12. Defendants are without sufficient information or knowledge to respond to these allegations, and on this basis, deny.
13. Deny the allegations contained in paragraph 13 for lack of knowledge or information sufficient to form a belief as to their truth.
14. Deny the allegations contained in paragraph 14 for lack of knowledge or information sufficient to form a belief as to their truth.
15. Deny the allegations contained in paragraph 15 for lack of knowledge or information sufficient to form a belief as to their truth.
16. Deny the allegations contained in paragraph 16 for lack of knowledge or information sufficient to form a belief as to

their truth.

17. Deny the allegations contained in paragraph 17 for lack of knowledge or information sufficient to form a belief as to their truth.
18. Defendants are without sufficient information or knowledge to respond to these allegations, and on this basis, deny.
19. Deny the allegations contained in the first, third, fourth and fifth sentences of paragraph 19 for lack of knowledge or information sufficient to form a belief as to their truth. Admit the allegations contained in the second sentence of paragraph 19.
20. Admit the allegations in paragraph 20.
21. Deny the allegations contained in the first sentence of paragraph 21 for lack of knowledge or information sufficient to form a belief as to their truth. Admit the remainder of the allegations in paragraph 21.
22. Deny the allegations in paragraph 22.
23. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Defendants deny.
24. Admit the allegations in the first sentence of this paragraph. The allegations contained in the second sentence of paragraph 24 constitute conclusions of law and Plaintiffs' characterization of their case to which no

response is required; to the extent they may be deemed allegations of fact, they are denied.

25. Admit the allegations contained in the first sentence of paragraph 25, except deny that FWS is organized and existing pursuant to Title 16, Chapter 1 of the United States Code. Admit the allegation contained in the second sentence of paragraph 25 that FWS "is the federal agency that issued the Biological Opinion and Incidental Take Statements for the Interim Plan;" the remainder of the allegations contained in the second sentence of paragraph 25 constitute conclusions of law and Plaintiffs' characterization of their case to which no answer is required.
26. Admit the allegations in the first sentence of this paragraph. The remainder of the allegations contained in paragraph 26 constitute conclusions of law and Plaintiffs' characterization of their case to which no answer is required; to the extent they may be deemed allegations of fact, they are denied.
27. Admit the allegation contained in paragraph 27 that "Defendant Dirk Kempthorne is the Secretary of the Interior;" the remainder of the allegations contained in paragraph 27 constitute conclusions of law and Plaintiffs' characterization of their case to which no answer is required; to the extent they may be deemed allegations of

fact, they are denied.

28. Admit the allegation contained in paragraph 28 that "Defendant Mary A. Bomar is the Director of the National Park Service;" the remainder of the allegations contained in paragraph 28 constitute conclusions of law and Plaintiffs' characterization of their case to which no answer is required; to the extent they may be deemed allegations of fact, they are denied.
29. Admit the allegation contained in paragraph 29 that "Defendant H. Dale Hall is the Director of [FWS];" the remainder of the allegations contained in paragraph 28 constitute conclusions of law and Plaintiffs' characterization of their case to which no answer is required; to the extent they may be deemed allegations of fact, they are denied.
30. Admit the allegations in paragraph 30.
31. Admit the allegations contained in the first sentence of paragraph 31. Admit the allegation contained in the second sentence of paragraph 31 that "[t]he Seashore provides important habitat to numerous wildlife species;" the remainder of the allegations contained in the second sentence of paragraph are too vague and ambiguous to permit a response and, on that basis, are denied.
32. Admit, except deny that the American Oystercatcher is listed

as significantly rare by the North Carolina Wildlife Resources Commission.

33. Admit the allegations in paragraph 33.
34. Admit the allegations in paragraph 34.
35. Admit the allegations in paragraph 35.
36. Admit the allegations in the first through sixth sentences of this paragraph. Deny the allegations contained in the seventh sentence of paragraph 36. The allegations contained in the eighth sentence of paragraph 36 purport to characterize the recovery plan cited, which speaks for itself and is the best evidence of its contents; any allegations that are contrary to its plain meaning and context are denied. The remainder of the allegations contained in paragraph 36 are too vague and ambiguous to permit a response and, on that basis, are denied.
37. Admit the allegations in the first, second, and fifth sentences of this paragraph. The allegations contained in the third sentence of paragraph 37 are too vague and ambiguous to permit a response and, on that basis, are denied. The allegations contained in the fourth sentence of paragraph 37 purport to characterize the reports cited, which speak for themselves and are the best evidence of their contents; any allegations contrary to their plain meaning and context are denied. Deny the allegations

- contained in the sixth sentence of paragraph 37.
38. Admit the allegations in paragraph 38.
39. The allegations contained in paragraph 39 purport to characterize the reports cited, which speak for themselves and are the best evidence of their contents; any allegations contrary to their plain meaning and context are denied.
40. Admit the allegations in paragraph 40.
41. Admit the allegations in paragraph 41.
42. Admit the allegations in paragraph 42.
43. The allegations contained in the first sentence of paragraph 43 purport to characterize the Federal Register notice cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied. The remainder of the allegations contained in paragraph 43 are too vague and ambiguous to permit a response and, on that basis, are denied.
44. The allegations contained in paragraph 44 are too vague and ambiguous to permit a response and, on that basis, are denied.
45. This paragraph consists of Plaintiffs' characterization of their Amended Complaint to which no response is required.
46. This paragraph consists of an allegation to which no responsive pleading is required; the Organic Act speaks for itself. Federal Defendants deny any allegations contrary to

the plain meaning of the statute.

47. This paragraph consists of an allegation to which no responsive pleading is required; the statutes speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of the statutes.
48. This paragraph consists of an allegation to which no responsive pleading is required; the Executive Orders speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
49. The first two sentences of this paragraph consist of allegations to which no responsive pleading is required; the NPS regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations. Federal Defendants admit the allegations in the third sentence.
50. This paragraph consists of an allegation to which no responsive pleading is required; the Migratory Bird Treaty Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of the statute.
51. This paragraph consists of an allegation to which no responsive pleading is required; the Executive Order speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
52. This paragraph consists of an allegation to which no

responsive pleading is required; the Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of the statute.

53. This paragraph consists of an allegation to which no responsive pleading is required; the Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of the statute.

54. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Defendants deny.

55. The allegations contained in the first sentence of paragraph 55 are too vague and ambiguous to permit a response and, on that basis, are denied. The remainder of the allegations contained in paragraph 55 constitute conclusions of law to which no answer is required; to the extent they may be deemed allegations of fact, they are denied.

56. Admit the allegation contained in the first sentence of paragraph 56 that "[o]n May 17, 2005, Defenders sent Defendants a notice of intent to sue;" the remainder of the allegations contained in the first sentence of paragraph 56 purport to characterize the notice cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied. The allegations contained in the second sentence of

paragraph 56 constitute conclusions of law to which no answer is required; to the extent they may be deemed allegations of fact, they are denied. Admit the allegations contained in the third sentence of paragraph 56.

57. This paragraph consists of an allegation to which no responsive pleading is required; the USGS Protocols speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.

58. This paragraph consists of an allegation to which no responsive pleading is required; the USGS Protocols speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.

59. Deny the allegations in paragraph 59.

60. Admit that DOW and Audubon submitted written comments to NPS on the alleged dates; deny the remaining allegations in the paragraph.

61. Admit the allegations in the first sentence of this paragraph. As to the second and third sentences, no responsive pleading is required; the environmental assessment for the Interim Plan speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.

62. This paragraph consists of an allegation to which no responsive pleading is required; the environmental

assessment for the Interim Plan speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.

63. This paragraph consists of an allegation to which no responsive pleading is required; the environmental assessment for the Interim Plan speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
64. The allegations contained in the first sentence of paragraph 64 are too vague and ambiguous to permit a response and, on that basis, are denied. Admit the allegations in the second sentence of this paragraph. As to the remainder of the paragraph, no responsive pleading is required; the FWS August 14, 2006, biological opinion ("2006 BiOp") speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
65. This paragraph consists of an allegation to which no responsive pleading is required; the 2006 BiOp speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
66. Admit only that DOW sent the Secretary of the Interior, the Director and Regional Director of NPS, the Regional Director of FWS, and the Superintendent of the Seashore, a letter dated December 18, 2006, entitled "60-Day Notice of Intent

to Sue for Violations of the Endangered Species Act in Connection with the Biological Opinion and Draft Interim Protected Species Management Plan for Cape Hatteras National Seashore." The remaining allegations do not require a responsive pleading as the letter speaks for itself; Federal Defendants deny any allegations contrary to the plain meaning of this letter.

67. Admit the allegations in paragraph 67.
68. Admit the allegation contained in paragraph 68 that "[o]n March 15, 2007, Audubon sent Defendants lengthy comments;" the remainder of the allegations contained in paragraph 68 purport to characterize the comments cited, which speak for themselves and are the best evidence of their contents; any allegations contrary to their plain meaning and context are denied.
69. Admit only that on April 24, 2007, FWS issued an amendment to the 2006 BiOP. The remaining allegations do not require a responsive pleading as the amendment speaks for itself; Federal Defendants deny any allegations contrary to the plain meaning of this document.
70. Admit the allegations in the first sentence of this paragraph. The remainder of the paragraph consists of an allegation to which no responsive pleading is required; the Interim Plan and FONSI speak for themselves. Federal

Defendants deny any allegations contrary to the plain meaning of these documents.

71. This paragraph consists of an allegation to which no responsive pleading is required; the Interim Plan and FONSI speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
72. This paragraph consists of an allegation to which no responsive pleading is required; the Interim Plan and FONSI speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
73. This paragraph consists of an allegation to which no responsive pleading is required; the Interim Plan and the USGS Protocols speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
74. Admit the allegations in paragraph 74.
75. This paragraph consists of an allegation to which no responsive pleading is required; the Court's July 17, 2007 Order speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
76. The allegations contained in the first sentence of paragraph 76 that "the Matei order declar[ed] ORV use in the Seashore

illegal" purports to characterize the order cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied; admit the remainder of the allegations contained in the first sentence of paragraph 76. As to the remaining allegations, no responsive pleading is required; the Murray letter speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this letter.

77. Deny the allegations in paragraph 77.
78. The allegations contained in the first sentence of paragraph 78 are too vague and ambiguous to permit a response and, on that basis, are denied. Admit the allegation contained in the second sentence of paragraph that "[o]f eleven piping plover nests on the Seashore in 2007, only four chicks fledged;" the remainder of the allegations contained in the second sentence of paragraph 78 purport to characterize the Biological Opinion cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied. Admit the allegation contained in the third sentence of paragraph 78 that "the 110 sea turtle 'false crawls' significantly exceeded the 86 nests during the 2007 season;" the remainder of the allegations contained in the third sentence of paragraph 78 purport to characterize the Biological Opinion

cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied.

79. The allegation contained in paragraph 79 that "the incidental take statement required Defendants to cease activities constituting take and immediately reinitiate consultation with the [FWS] is take were to be exceeded" purports to characterize the incidental take statement cited, which speaks for itself and is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied; deny the remainder of the allegations contained in paragraph 79.
80. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
81. Federal Defendants herein restate and incorporate by reference the responses contained in paragraph 1 through 80 of the Answer.
82. This paragraph consists of allegations to which no responsive pleading is required. The first sentence relates to the NPS Organic Act, which speaks for itself; Federal Defendants deny any allegations contrary to the plain meaning of this document. The second sentence contains conclusions of law to which no response is required; to the

extent these allegations are deemed factual, they are denied.

83. This paragraph consists of an allegation to which no responsive pleading is required; the NPS Organic Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
84. This paragraph consists of an allegation to which no responsive pleading is required; the NPS Organic Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
85. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the NPS Organic Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
86. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the NPS Organic Act speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.
87. Admit the allegation contained in the first sentence of paragraph 87 that "[i]n 2006, the National Park Service published its new Management Policies 2006;" the remainder of the allegations contained in paragraph 87 purport to characterize the document cited, which speaks for itself and

- is the best evidence of its contents; any allegations contrary to its plain meaning and context are denied.
88. This paragraph consists of an allegation to which no responsive pleading is required; the legislation speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this legislation.
89. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the Executive Orders speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
90. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the Executive Orders speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these documents.
91. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
92. This paragraph consists of an allegation to which no responsive pleading is required; the NPS regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.
93. This paragraph contains conclusions of law to which no

- response is required. To the extent this allegation are deemed factual, Federal Defendants deny.
94. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
95. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
96. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
97. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
98. Federal Defendants deny the allegations in paragraph 98.
99. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
100. Federal Defendants herein restate and incorporate by reference the responses contained in paragraph 1 through 100 of the Answer.
101. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.

102. This paragraph consists of an allegation to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

103. This paragraph consists of an allegation to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.

104. This paragraph consists of an allegation to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

105. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.

106. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.

107. This paragraph consists of conclusions of law and

allegations to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.

108. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

109. This paragraph consists of conclusions of law and allegation to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.

110. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

111. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

112. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.

113. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
114. The allegations contained in paragraph 114 purport to characterize the documents cited, which speak for themselves and are the best evidence of their contents; any allegations contrary to their plain meaning and context are denied.
115. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
116. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
117. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
118. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
119. Federal Defendants herein restate and incorporate by reference the responses contained in paragraph 1 through 118 of the Answer.
120. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are

deemed factual, Federal Defendants deny.

121. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.
122. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the ESA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.
123. Deny the allegations in paragraph 123.
124. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
125. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
126. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
127. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
128. This paragraph contains conclusions of law to which no

response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

129. Federal Defendants herein restate and incorporate by reference the responses contained in paragraph 1 through 129 of the Answer.

130. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

131. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the MBTA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

132. This paragraph consists of an allegation to which no responsive pleading is required; the MBTA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

133. This paragraph consists of an allegation to which no responsive pleading is required; the MBTA and its implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these authorities.

134. This paragraph consists of conclusions of law and allegation to which no responsive pleading is required; the MBTA implementing regulations speak for themselves. Federal

Defendants deny any allegations contrary to the plain meaning of these regulations.

135. Admit the allegations in paragraph 135.

136. Admit the allegations in paragraph 136.

137. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

138. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the Executive Order speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this document.

139. The allegations contained in paragraph 139 constitute conclusions of law to which no answer is required; to the extent they may be deemed allegations of fact, they are denied.

140. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

141. Federal Defendants herein restate and incorporate by reference the responses contained in paragraph 1 through 140 of the Answer.

142. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required;

NEPA speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this statute.

143. This paragraph consists of conclusions of law and allegations to which no responsive pleading is required; the NEPA implementing regulations speak for themselves. Federal Defendants deny any allegations contrary to the plain meaning of these regulations.
144. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
145. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
146. This paragraph, and the subparagraphs (a) through (l), contain conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
147. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
148. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.
149. This paragraph contains conclusions of law to which no

response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

150. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.

151. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

152. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.

153. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

154. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

155. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

156. This paragraph contains a conclusion of law to which no response is required. To the extent this allegation is deemed factual, Federal Defendants deny.

157. Federal Defendants herein restate and incorporate by

reference the responses contained in paragraph 1 through 156 of the Answer.

158. No responsive pleading is necessary for this paragraph. The first two sentences relate to the APA, which speaks for itself; Federal Defendants deny any allegations contrary to the plain meaning of this statute. The third sentence contains a conclusion of law to which no response is required; to the extent this allegation is deemed factual, Federal Defendants deny.
159. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
160. This paragraph consists of an allegation to which no responsive pleading is required; the July 31, 2007, letter speaks for itself. Federal Defendants deny any allegations contrary to the plain meaning of this letter.
161. This paragraph contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
162. This paragraph, which includes subparagraphs (a) through (I), contains conclusions of law to which no response is required. To the extent these allegations are deemed factual, Federal Defendants deny.
163. This paragraph contains conclusions of law to which no

response is required. To the extent these allegations are deemed factual, Federal Defendants deny.

The remainder of the Complaint, beginning with the word, "WHEREFORE," is a prayer for relief to which no response is required. To the extent that the allegations are deemed to be factual, they are denied. Federal Defendants deny all allegations not specifically admitted or denied in all of the preceding paragraphs.

Wherefore, having fully answered Plaintiffs' Amended Complaint, Federal Defendants respectfully move this Court to dismiss Plaintiffs' Complaint with prejudice, that judgment be entered in favor of Federal Defendants, that Plaintiffs receive no relief, that all costs and expenses of this litigation be borne by Plaintiffs, that Federal Defendants be awarded costs incurred in defense of this action, and that this Court grant such other relief as it deems appropriate and necessary.

Respectfully submitted, this 18th day of January, 2008.

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 18th day of January, 2008, served a copy of the foregoing upon the below listed parties by electronically filing the foregoing with the Court on this date using the CM/ECF system or by placing a copy in the U.S. Mail:

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