

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>,	)	PLAINTIFFS AND FEDERAL
Plaintiffs,	)	DEFENDANTS JOINT MOTION TO
	)	CONTINUE THE HEARING ON
v.	)	PLAINTIFFS' MOTION FOR
	)	PRELIMINARY INJUNCTION
NATIONAL PARK SERVICE, <u>et al.</u>,	)	TO ALLOW FOR PLAINTIFFS
Defendants,	)	AND FEDERAL DEFENDANTS
	)	TO ATTEMPT TO FINALIZE A
and	)	SETTLEMENT AGREEMENT
	)	RESOLVING ALL ISSUES IN
DARE COUNTY, <u>et al.</u>,	)	DISPUTE IN THE CASE
)	
and)	
)	
Intervenor-Defendants.)	

Plaintiffs, Defenders of Wildlife, et al., and Defendants, the National Park Service, et al. (hereinafter "Federal Defendants"), by and through their undersigned counsel, respectfully move, pursuant to Fed. R. Civ. P. 6(b), for a continuance of the hearing on Plaintiffs' Motion for Preliminary Injunction. Currently, the hearing is calendared for April 4, 2008. Plaintiffs and Federal Defendants respectfully request a seven (7) day continuance, until April 11, 2008, for the hearing. Plaintiffs and Federal Defendants recognize the timing of this request and note that it is not meant to be dilatory;

Plaintiffs and Federal Defendants need this additional time to attempt to finalize a settlement agreement that would resolve all of the issues for all species in the case, not just the preliminary injunction, for presentation to the Court in the form of a Consent Decree.

On March 14, 2008, Federal Defendants filed their Response to Plaintiffs' Motion for Preliminary Injunction. In their Response, Federal Defendants recognized that pursuant to 36 C.F.R. 4.10, the National Park Service ("NPS") regulation implementing Executive Orders 11644 and 11989, off-road vehicle ("ORV") use is unauthorized at the Seashore in the absence of a special regulation designating ORV routes and areas; further, Federal Defendants recognized that on this basis, the Court could find Plaintiffs are entitled to a preliminary injunction. Fed. Defs.' Resp. at 4. Federal Defendants also stated they would make a good faith effort between the date of their filing and the date of the hearing to reach an agreement with the other parties as to the terms of an appropriate injunction. Id. at 5-6.

Plaintiffs and Federal Defendants have an agreement in principle as to the major points in contention and are very close to reaching an agreement that would resolve the case.¹

¹Intervenor-Defendants have been apprised of the discussions between Plaintiffs and Federal Defendants.

Plaintiffs and Federal Defendants need the additional one week to attempt to finalize their agreement for presentation to the Court in the form of a Consent Decree.

For these reasons, Plaintiffs and Federal Defendants respectfully request the Court to continue the hearing on Plaintiffs' Motion for Preliminary Injunction for seven days, until April 11, 2008. In the alternative, Plaintiffs and Federal Defendants respectfully request that the Court convert the hearing on Friday, April 4, 2008, to a status conference rather than a hearing on Plaintiffs' Motion for Preliminary Injunction.

Intervenor-Defendants have been consulted regarding this requested continuance and object to the continuance.

Respectfully submitted, this 2nd day of April, 2008.

FOR PLAINTIFFS

/s/ Derb S. Carter, Jr.

Derb S. Carter, Jr.

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 2nd day of April, 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:

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