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Foundation, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Center for Biological Diversity; Sierra
Club; and Grand Canyon Wildlands
Council,

Plaintiffs,

v.

United States Forest Service,

Defendant,

and

National Shooting Sports Foundation,

Applicant for
Intervention

No. CV-12-8176-PCT-SMM

**DECLARATION OF LAWRENCE
KEANE IN SUPPORT OF NATIONAL
SHOOTING SPORTS FOUNDATION'S
MOTION FOR LEAVE TO INTERVENE**

I, Lawrence G. Keane, declare as follows:

1. I am a resident of Fairfield County, Connecticut, over 18 years of age, and,
unless otherwise stated, I make this Declaration based on my personal knowledge, or on

1 information and belief relying on information collected by the National Shooting Sports
2 Foundation, Inc. (“NSSF”).

3 2. I am Senior Vice President, Assistant Secretary, and General Counsel to
4 NSSF. I make this Declaration in support of NSSF’s Motion to Intervene in the case
5 entitled *Center for Biological Diversity v. United States Forest Service*, No. CV 12-8176-
6 PCT (the “Litigation”).

7 3. I received my BA degree in Economics from Fordham University where I
8 also earned my law degree. I am licensed to practice law in Connecticut and New York.
9 I began my legal career as an Assistant District Attorney before going into private practice
10 where I represented several firearm manufacturers. I joined NSSF in 2000 and am
11 responsible for all of its legal, government relations and risk management functions.
12 More recently, I have also had the honor of serving on the Defense Trade Advisory Group
13 at the invitation of the Assistant Secretary of State.

14 4. I have reviewed the Complaint filed by Plaintiffs. The object of Plaintiffs’
15 claims is the product NSSF’s members manufacture, distribute, sell and use – lead
16 ammunition. As explained below, the claims asserted by Plaintiffs and the relief being
17 sought would, if Plaintiffs are successful, injure the interests of NSSF’s members.

18 5. Formed in 1961, NSSF is a Connecticut non-profit tax-exempt corporation
19 with a membership of more than 8,000 federally-licensed firearms manufacturers,
20 distributors, and retailers; companies manufacturing, distributing, and selling shooting and
21 hunting-related goods and services; sportsmen’s organizations; public and private
22 shooting ranges; gun clubs; publishers; and individual recreational target shooters and
23 hunters. NSSF’s mission is to promote, protect and preserve hunting and shooting sports,
24 and support America’s traditional hunting heritage and firearms freedoms.

25 6. NSSF’s members, and the ammunition and firearms industry as a whole,
26 provide approximately 210,000 jobs in the U.S., and have an overall annual economic

1 impact of almost \$32 billion. More than 50 million hunters and target shooters in
2 America purchase and use traditional ammunition containing lead components.

3 7. The ammunition that a consumer purchases is made of a primer, propellant,
4 the projectile (shot or bullet), and the casing. Approximately 95% of the domestically
5 manufactured ammunition is traditional ammunition made with lead bullets or shot, and
6 over 90% of that domestically manufactured traditional ammunition is manufactured by
7 NSSF members.

8 8. Plaintiffs seek a ruling that the use of traditional lead ammunition for
9 hunting must be regulated as the disposal of a hazardous waste under the Resource
10 Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 *et seq.* RCRA, which was
11 enacted in 1976, gives the EPA the authority to control hazardous waste from "cradle-to-
12 grave," including the generation, transportation, treatment, storage, and disposal of such
13 waste. A ruling that the use of traditional lead ammunition for hunting is subject to
14 regulation by the EPA under RCRA would result in direct and immediate injuries to
15 NSSF's members' economic, recreational and legal interests – interests that currently
16 enjoy the status quo. Any significant restriction in the use of lead ammunition will
17 adversely impact the manufacture and sale of traditional hunting ammunition in several
18 significant ways.

19 9. Domestic ammunition manufacturers will be required – at great cost – to re-
20 design their products, retool or repurchase new manufacturing equipment, and
21 significantly change their manufacturing processes. Ammunition is produced in high
22 speed and high volume automated processes using expensive, close-tolerance, and
23 purpose-built machinery. Ammunition production relies on manufacturing know-how
24 honed by decades of experience. Each of the major manufacturers produces several
25 million cartridges of traditional ammunition a day. It is not possible to simply replace
26 lead with alternative raw material in existing ammunition manufacturing processes.

1 Further, the efficacy, consumer acceptance and environmental, health, and safety impacts
2 of substitutes would have to be evaluated in order to determine if a switch to alternative
3 ammunition is even feasible.

4 10. Domestic ammunition manufacturers operate in a very competitive
5 economic environment, with very low profit margins. Even if adequate alternatives for
6 traditional ammunition were available and capable of being mass-produced, domestic
7 manufacturers might not be able to obtain the capital needed, particularly in the current
8 economic climate, to accomplish such a radical change to their ammunition manufacturing
9 processes.

10 11. Assuming that alternative materials could be found for traditional mass-
11 produced shot and bullets, such alternatives will be more expensive than existing
12 ammunition. Based on research by our organization, my understanding is that banning
13 traditional ammunition will increase the cost of ammunition, on average, up to 190%.
14 Such price increases will impose a burden on NSSF members (including sports shooters
15 and hunters), firearms dealers, shooting ranges, Federal and State law enforcement
16 agencies, and the U.S. military. Higher prices will not only mean reduced sales and the
17 loss of related jobs, as well as a reduction in hunting and related recreational activities.
18 Higher prices will also cause a reduction in the collection of the Federal Firearms and
19 Ammunition and Excise Tax ("FAET") (11% on taxable ammunition sales), which is a
20 primary source of wildlife conservation funding in the U.S. All of the FAET revenues go
21 to the U.S. Fish and Wildlife Service, which then distributes the funds to the States for
22 wildlife and sport fish restoration.

23 12. NSSF's participation as a party will also assist the Court in understanding
24 the manufacturing, distribution, sale and use of traditional ammunition and the potential
25 impact of the relief Plaintiffs' seek on this industry. The NSSF also assisted the
26 Environmental Protection Agency in that agency's adoption of a document entitled *Best*

1 *Management Practices for Lead at Outdoor Shooting Ranges*, Revised June 2005. That
2 experience will further NSSF's ability to assist this Court in adjudicating Plaintiffs' claims
3 and request for relief.

4 13. Finally, NSSF does not believe its interests will be represented adequately
5 by the U.S. Forest Service, which is the Defendant in this case. The Forest Service, as a
6 federal agency that manages the use of National Forest System land by a wide variety of
7 users, does not have interests that are analogous to the private interests of NSSF and its
8 over 8,000 members, nor does the Forest Service share the business goals and objectives
9 of NSSF and its members. In fact, the USFS' litigation position may be impacted by
10 regional and national policies and considerations that do not take into account the interests
11 of NSSF and its members. Furthermore, a ruling that the use of traditional lead
12 ammunition for hunting and related recreational activities would apply to all such
13 activities, regardless of whether they occur on National Forest System land, other federal
14 land, State land or private land. The Forest Service is therefore not in a position to fully
15 and adequately represent the interests of NSSF and its members in this case.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed on January 22, 2013, in Newtown, Connecticut.

18 
19 Lawrence G. Keane

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2013, I electronically transmitted the foregoing DECLARATION OF LAWRENCE KEANE IN SUPPORT OF NATIONAL SHOOTING SPORTS FOUNDATION'S MOTION FOR LEAVE TO INTERVENE to the Clerk's Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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