

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR)
ENVIRONMENTAL RESPONSIBILITY,)

Plaintiff,)

v.)

U.S. DEPARTMENT OF THE INTERIOR)
AND KENNETH SALAZAR, in his)
official capacity as Secretary of the)
Interior, U.S. Department of the Interior *et*)
al.,)

Defendants,)

SAFARI CLUB INTERNATIONAL and)
NATIONAL RIFLE ASSOCIATION OF)
AMERICA,)

Defendant-Intervenor Movants.)

Case No. 10-cv-01274(ESH)
MOTION FOR LEAVE TO
INTERVENE OF SAFARI
CLUB INTERNATIONAL
AND NATIONAL RIFLE
ASSOCIATION OF
AMERICA
AND MEMORANDUM
IN SUPPORT OF
MOTION

MOTION

Safari Club International and the National Rifle Association of America (“Safari Club and NRA”) move this Court for leave to participate as *defendant-intervenors* in this action brought by Public Employees for Environmental Responsibility (“PEER”) against the U.S. Department of Interior *et al.* (“Federal Defendants”). PEER challenges the Federal Defendants’ refusal to adopt a rule that would ban varmint/predator hunting in the Mojave National Preserve (“MNP”) and

would limit other types of hunting. As organizations that promote and protect hunting opportunities for their members and for the hunting community generally, Safari Club and NRA seek to participate as defendant-intervenors in order to defend against PEER's attempt to restrict hunting on the MNP.

When PEER initiated this lawsuit on July 28, 2010, they did so seeking a court order requiring the NPS to act on their rulemaking petition. The petition sought regulations that would ban varmint/predator hunting and would limit other types of hunting on the MNP. After PEER filed the lawsuit, but before the court could rule on PEER's claims, Federal Defendants denied PEER's rulemaking petition. In response, PEER sought and received this court's approval to amend their original complaint. PEER's amended pleadings now challenge Federal Defendants' denial of their petition and PEER now seeks a court order setting aside that denial.

On September 24, 2010, Safari Club sought leave to participate as an amicus in PEER's original lawsuit. Safari Club asked only for amicus status due to the procedural nature of PEER's claims. However, Safari Club recognized that the ultimate goal of PEER's original procedural suit was to restrict hunting on MNP. Federal Defendants and PEER opposed Safari Club's amicus motion, based on the procedural nature of the case. The Court granted Safari Club's motion on October 27, 2010.

True to Safari Club's predictions, once Federal Defendants granted PEER the relief they sought in their original case – action on their petition – PEER requested leave to amend their suit. PEER did not simply want the NPS to act on their rulemaking petition. Plaintiffs wanted a specific action, and the NPS did not comply. PEER's amended case now directly challenges the NPS's decision not to promulgate rules to restrict hunting on the MNP. Because this case now substantively challenges hunting on the preserve, Safari Club is seeking a more active role in this litigation. The National Rifle Association of America, whose members also enjoy hunting on the MNP, and who would also be harmed by restrictions on hunting in the MNP, seek to join Safari Club in their intervention.

Safari Club and NRA seek party/intervenor status – in contrast to amicus status – in order to actively participate in all motions, briefing and oral argument in this case. In addition, if any party appeals any ruling of this Court, Safari Club and NRA, as intervenors, will automatically be parties in that appeal and will not have to move to participate anew with the appellate court.

If granted intervenor status, Safari Club and NRA will abide by the briefing schedule approved by the Court on January 10, 2011. Safari Club and NRA will file a summary judgment motion and memorandum of law five days following Federal Defendants' summary judgment filing. Safari Club and NRA's brief will limit its arguments to points not covered by Federal Defendants.

Counsel for Safari Club and NRA has contacted PEER's counsel and Federal Defendants' counsel for their positions on this motion and have been informed that PEER opposes Safari Club and NRA's motion and the Federal Defendants are awaiting review of Safari Club and NRA's motion and memorandum before deciding on their position.

WHEREFORE, Safari Club and NRA respectfully request that this Court grant leave to Safari Club and NRA to participate as defendant-intervenors in this matter.

MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO PARTICIPATE AS DEFENDANT-INTERVENORS

I. INTRODUCTION

Safari Club and NRA, by and through counsel, move in this case for defendant-intervenor status. Safari Club is an international hunting and conservation organization. The National Rifle Association of America is an organization of sportsmen from throughout the United States. Members of Safari Club and the NRA hunt and otherwise enjoy and conserve wildlife in the Mojave National Preserve. In this litigation, Plaintiff PEER seeks regulations that will terminate some types of hunting in the MNP and will limit the seasons for other types of hunting.

Safari Club and NRA oppose PEER's position that Federal Defendants have any obligation to adopt regulations to govern hunting in the MNP. In addition,

Safari Club and NRA deny that Federal Defendants have any basis for adopting regulations that would eliminate or restrict the hunting opportunities that PEER seeks to terminate. Instead, Safari Club and NRA's position is that hunting is not having a detrimental impact on desert tortoises within the MNP and that in fact, hunting benefits the MNP's wildlife, including tortoises. The ultimate relief sought by PEER in this lawsuit is an elimination and/or limitation of hunting in the MNP. That relief would directly harm the hunting community. Safari Club and NRA and their members are representatives of that hunting community. Any success by PEER in this case will harm the interests of Safari Club and NRA and their members, who participate in the type of hunting that PEER seeks to eliminate or restrict in the MNP and who also support sustainable-use conservation of wildlife.

II. HUNTING IN THE MOJAVE NATIONAL PRESERVE

Through the California Desert Protection Act ("CDPA"), Congress specifically directed the NPS to permit hunting on the Mojave National Preserve.

The Secretary *shall permit hunting*, fishing, and trapping on lands and waters within the preserve designated by this subchapter in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this subchapter shall be construed as affecting the jurisdiction or

responsibilities of the States with respect to fish and wildlife on Federal lands and waters covered by this part nor shall anything in this subchapter be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this part.

16 U.S.C. § 410aaa-46(b). Although Congress provided circumstances under which the NPS could exclude certain MNP areas from hunting, none of those exceptions apply to this case or would support the hunting restrictions that PEER seeks in this lawsuit.

Even when hunting closures are authorized by the CDPA, the NPS does not have discretion to unilaterally regulate such closures. The CDPA requires that the NPS coordinate with the California fish and game management authority on any proposed hunting closures. *Id.* Hunting in the MNP is mandatory and therefore is governed by state, not NPS regulations. According to the NPS's own regulations, the NPS is only required to promulgate federal regulations for hunting when Congress has designated hunting to be a *discretionary* activity on NPS lands. In cases in which hunting is statutorily mandated, state laws and not NPS regulations govern.

Hunting and trapping.

(1) Hunting shall be allowed in park areas where such activity is specifically mandated by Federal statutory law.

(2) Hunting may be allowed in park areas where such activity is specifically authorized as a discretionary activity under Federal statutory law if the superintendent determines that such activity is consistent with public safety and enjoyment, and sound resource management principles. ***Such hunting shall be***

allowed pursuant to special regulations.

...

(4) Where hunting or trapping or both are authorized, such activities shall be conducted in accordance with Federal law and the laws of the State within whose exterior boundaries a park area or a portion thereof is located. Nonconflicting State laws are adopted as a part of these regulations.

36 C.F.R. § 2.2(b). The NPS has no reason or authority to promulgate regulations that restrict or limit hunting beyond the regulations adopted by the State of California.

III. DEFENDANT-INTERVENOR APPLICANTS SAFARI CLUB AND NRA

A. Safari Club International

Safari Club International is a nonprofit corporation incorporated in the State of Arizona, operating under § 501(c)(4) of the Internal Revenue Code, with principal offices and place of business in Tucson, Arizona. Its membership includes approximately 53,000 individuals from the United States and many of the countries around the world, including approximately 5,000 members who reside in California. Safari Club's missions are the conservation of wildlife, protection of the hunter, and education of the public concerning hunting and its use as a conservation tool. See Goodenow Decl., ¶¶ 4-5 (attached as "Exhibit A" to this motion).

Safari Club carries out its conservation mission through its sister organization, Safari Club International Foundation (“SCIF”). SCIF is a nonprofit IRC § 501(c)(3) corporation. Its missions include the conservation of wildlife, education of the public concerning hunting and its use as a conservation tool, and humanitarian services. More specifically, the conservation mission of SCIF is: (a) to support the conservation of the various species and populations of game animals and other wildlife and the habitats on which they depend; and (b) to demonstrate the importance of hunting as a conservation and management tool in the development, funding and operation of wildlife conservation programs. *Id.* ¶ 5.

Safari Club disagrees with PEER’s allegations that the National Park Service has any obligation to adopt regulations governing hunting in the MNP. If PEER is successful in its challenge to the NPS’s decision not to promulgate rules to end varmint hunting and to limit seasons for other types of hunting, Safari Club members and others who hunt and conserve wildlife in the MNP will suffer. As an organization that promotes the principles and practice of sustainable use conservation, Safari Club believes that the existence of abundant hunting opportunities is important to wildlife conservation.

Additionally, Safari Club members’ interests include the ability to enjoy recreational activities, including hunting of coyotes, bobcats, badger and foxes and other species in the MNP. *See, e.g.,* McDonald Decl. ¶¶ 12, 20, attached as

“Exhibit B” to this motion; Guntert Decl. ¶¶ 9, 11, attached as “Exhibit C” to this motion; and Osgood Decl. ¶ 8, attached as “Exhibit “D” to this motion. Safari Club members have definite plans to continue to hunt in the MNP. McDonald Decl. ¶ 22; Guntert Decl. ¶¶ 24; Osgood Decl. ¶16. The regulations that PEER seeks for the MNP would reduce or eliminate the recreational opportunities of both Safari Club members and other hunters and would greatly affect Safari Club’s sustainable-use conservation efforts in the preserve. McDonald Decl. ¶¶ 19, 20, 20; Guntert Decl. ¶¶ 18, 19, 23; Osgood Decl. ¶¶ 14, 15. Safari Club has a clear interest in the subject matter of this litigation that it should be able to defend as an intervenor.

B. National Rifle Association of America

NRA is an Internal Revenue Code Section 501(c)(4) nonprofit corporation, incorporated in the State of New York in 1871, with principal offices and place of business in Fairfax, Virginia. Cox Dec. ¶ 2, attached as “Exhibit E” to this motion. NRA members hunt throughout the United States, including in California. Cox Dec. ¶ 4. NRA members hunt varmints/predators and other species and engage in sustainable use conservation in the Mojave National Preserve. Cox Dec. ¶ 5

The NRA has a Director of Conservation, Wildlife and Natural Resources working from its headquarters in Fairfax, Virginia whose primary responsibility is to promote the interests of the hunting community in wildlife management, healthy

habitat, and sustainable populations to ensure that these wildlife populations continue to be available to be enjoyed by NRA members and to protect and sustain hunters' legacy as the primary supporters of wildlife conservation throughout the United States.

One of NRA's key functions is to preserve the tradition of hunting, protecting it from unreasonable and unnecessary restrictions. See Cox Decl. ¶ 3. Article II, Section 5 of the NRA Bylaws states that one of the purposes of the NRA is "[t]o promote hunter safety, and to promote and defend hunting as a shooting sport and as a viable and necessary method of fostering the propagation, growth and conservation, of our renewable wildlife resources." See Cox. Decl. ¶ 3.

NRA also opposes PEER's allegations that Federal Defendants have any obligation to adopt regulations governing hunting in the MNP. PEER's success in this lawsuit would harm NRA members who hunt and conserve wildlife in the MNP. As an organization that promotes the principles and practice of sustainable use conservation, NRA believes that the existence of abundant hunting opportunities is important to wildlife conservation.

Additionally, NRA members' interests include the ability to enjoy recreational activities, including hunting of coyotes, bobcats, badger and foxes and other species in the MNP. *See, e.g.*, McDonald Decl. ¶¶ 12, 20 (Exhibit "B"); Guntert Decl. ¶¶ 9, 11 (Exhibit "C"). NRA members have definite plans to

continue to hunt in the MNP. McDonald Decl. ¶ 22; Guntert Decl. ¶¶ 24. The regulations that PEER seeks for the MNP would reduce or eliminate the recreational opportunities of these NRA members and many other hunters and would greatly affect NRA's sustainable-use conservation efforts in the preserve. McDonald Decl. ¶¶ 19, 20, 21; Guntert Decl. ¶¶ 18, 19, 23. NRA has an interest in the subject matter of this litigation that it should be able to defend as an intervenor.

IV. ARGUMENT

A. Safari Club and NRA are Entitled to Intervene As of Right Under Federal Rule 24(a)

Safari Club and NRA, whose interests (including the interests of Safari Club and NRA members) will be impaired by the relief that PEER seeks, will not be adequately represented by the existing parties in this case, and are entitled to intervene as of right in this litigation. Federal Rule of Civil Procedure 24(a)(2), that governs intervention as of right, states in pertinent part:

On timely motion the court must permit anyone to intervene who: claims an interest relating to the property or transaction that is the subject of the action, and is so situated that the disposition of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represented that interest.

The D.C. Circuit has determined that intervention as of right depends upon the applicants' ability to satisfy five prerequisites: (1) the timeliness of the motion; (2)

a showing of “adequate interest”; (3) a possible impairment of that interest; (4) a lack of adequate representation by the existing parties to the action; and 5) standing to sue. *Fund for Animals v. Norton*, 322 F.3d 728, 731-32 (D.C. Cir. 2003). Safari Club and NRA satisfy each of these five prerequisites.

1. This Motion is Timely

Safari Club is already a participant in this litigation. This motion seeks only to enhance the role that Safari Club already plays in this litigation and to add an additional member to Safari Club’s intervention team. This litigation is still in its relatively early stages in that the Administrative Record has not yet been filed and no briefing has commenced. No prejudice will come to any party from the granting of this motion at this stage of the litigation. *See NAACP v. New York*, 413 U.S. 345, 366 (1973). Consequently, this motion to intervene meets the timeliness prerequisite.

2. Safari Club and the NRA and Their Members have Substantial Legal Interests

Safari Club and NRA have substantial legal interests in the subject matter of this suit. Safari Club and NRA members enjoy hunting on the MNP, including the types of hunting that PEER wishes to terminate and/or limit. For intervention as of right, a party must assert an interest in the subject matter of the suit. *Foster v. Gueory*, 655 F.2d 1319, 1324 (D.C. Cir. 1981). Here, Safari Club and the NRA’s

interests are exactly the types of interest required for intervention. Their hunting activities are currently authorized under Federal and State laws.

The interest need not be a direct one in the property or transaction at issue, provided that it is an interest that would be impaired by the outcome of the litigation. *Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 135-36 (1967). The D.C. Circuit has defined the interest test as one of efficiency rather than one of exclusivity. The D.C. Circuit has explained that “[t]he ‘interest’ test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967). If the NPS were to adopt regulations to eliminate or limit hunting, Safari Club and NRA might file suit to challenge that action. Efficiency dictates allowing Safari Club and NRA to make these arguments here.

Additionally Safari Club, the NRA and their memberships have strong interests in promoting sustainable use conservation that would be harmed should PEER succeed in ending and/or limiting hunting on the Preserve. Safari Club and NRA promote the principle and practice of sustainable use conservation. The role that hunting and hunters play in wildlife conservation on the Mojave National Preserve is a component of Safari Club and NRA’s support for sustainable use conservation. Management of predator/varmint populations on the preserve are an

important component of the efforts to maintain healthy wildlife populations, including desert tortoise populations, on the preserve.

Safari Club and the NRA possess the requisite interests in issues in this litigation. Safari Club and NRA members are those who will be directly impacted by the relief that PEER seeks in this litigation. Consequently, Safari Club and NRA should be permitted to intervene to protect these interests.

3. PEER's Requested Relief, if Granted, Would Impair These Legal Interests

If PEER succeeds in this litigation, this Court will set aside the NPS's decision to reject PEER's rulemaking petition. Federal Defendants refused PEER's request to impose regulations that would ban varmint/predator hunting and would impose limits on other hunting in the preserve. If PEER succeeds, hunting on the MNP will be placed in jeopardy. Those who hunt predators/varmints and other species on the preserve, such as Safari Club and NRA members, stand to lose a recreational and sustainable use conservation opportunity that they currently use and enjoy. Thus, the disposition of this case "may impair" Safari Club and NRA's and their members' interests in the subject matter of this case. Safari Club and NRA should have the right to defend against this litigation threat.

4. The Parties to This Action Offer Inadequate Representation

Although the federal government intends to defend against PEER's

challenges, they are nonetheless unable to adequately represent Safari Club and NRA's interests and do not share those exact interests.¹ In fact, the Federal Defendants opposed Safari Club's involvement in this case as an *amicus curiae*. To satisfy the "inadequate representation" standard for intervention as of right, an intervenor-applicant need only show that the existing representation "may be" inadequate, and the showing required is "minimal." *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 n. 10 (1972). Moreover, even where the potential intervenor's interest in the adoption or administration of a specific regulation or action may coincide with that of a defendant regulatory agency, that interest, by itself, does not necessarily mean that "adequacy of representation is ensured for purposes of rule 24(A)(2)." *Natural Resources Defense Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977). "[M]erely because parties share a general interest in the legality of a program or regulation does not mean their particular interests coincide so that representation by the agency alone is justified." *American Horse Protection Ass'n v. Veneman*, 200 F.R.D. 153, 159 (D.D.C. 2001). Similarly, the Court of Appeals for the District of Columbia Circuit found that the U.S. Fish and Wildlife Service ("FWS") could not adequately represent the "more narrow and parochial" interests of the country of Mongolia in litigation challenging the FWS' listing and importation obligations with respect to foreign species of

¹ PEER, of course, cannot and will not represent Safari Club and NRA's interests.

argali sheep, even though both entities involved in the litigation were involved in efforts to conserve the sheep species and were attempting to defend the legality of the same ESA regulation. *Fund for Animals v. Norton*, 322 F.3d 728, 737 (D.C. 2003). “[E]ven ‘a shared general agreement ... does not necessarily ensure agreement in all particular respects,’ ... and ‘[t]he tactical similarity of the present legal contentions of the [parties] does not assure adequacy of representation or necessarily preclude the [intervenor] from the opportunity to appear in [its] own behalf.’” *Nuesse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967).

The Federal Defendants do not participate in hunting or recreational activities in the MNP. Members of Safari Club and NRA do. The Federal Defendants do not have the specific interest in conservation and hunting that Safari Club and NRA and their members have. The Federal Defendants qualify as a landowner, manager, regulator, and sovereign. Safari Club and NRA and their members are users of the land and represent a component of the regulated public (or the public who benefit from the proper management of the preserve). The Federal Defendants must represent a wide variety of interests that may have competing views of how the MNP, and hunting in particular, should be managed. In short, the Federal government does not share the same interests as Safari Club and NRA and their members, and therefore cannot represent those interests adequately.

The Federal Defendants may be concerned with managing wildlife and hunting opportunities on the preserve, but Safari Club and NRA and their members have both a broader interest in defending sustainable use conservation of predators and other species and a narrower interest in enjoying hunting and related activities on the preserve. Consequently, Safari Club and NRA's focus may be much narrower and yet much deeper than that of the NPS. The D.C. Court of Appeals has acknowledged the potential benefits offered by an intervenor whose depth of interest can enhance the defense provided by a more broadly concerned governmental entity. *See Natural Resources Defense Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977) (intervenor "likely to serve as a vigorous and helpful supplement to [agency's] defense.").

Where, as here, Federal Defendants are obligated to represent the interests of different groups with competing motivations, the Federal Defendants cannot adequately represent the interests of all of these groups at the same time. *Trbovich*, 404 U.S. at 538. As noted above, the Federal Defendants opposed Safari Club's efforts to participate as *amicus curiae* during the early stages of this case. The Federal Defendants obviously see a conflict between the defense of their interests in this case and the interests of Safari Club and NRA. Consequently, while Safari Club and NRA may share some common interests with Federal Defendants, the obligations of the Federal Defendants to a larger constituency make it impossible

for them to provide representation that will protect the unique and different interests of Safari Club and NRA and their members.

5. By Satisfying Rule 24 Standards, Safari Club and NRA Demonstrate Their Standing to Intervene

Safari Club and NRA have demonstrated their right to intervene under the criteria for intervention as of right and, consequently, have satisfied any standing requirements. After questioning the need for defendant-intervenors (as opposed to parties bringing new claims) to show standing at all, the D.C. Circuit held that “any person who satisfies Rule 24(a) will also meet Article III’s standing requirement.” *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003). Thus, for the same reasons that Safari Club and NRA are entitled to intervene as of right under Rule 24(a), Safari Club and NRA also satisfy all of the criteria for standing necessary to intervene as defendants in this action. Safari Club and NRA nonetheless briefly address the standing requirement.

Safari Club and NRA members enjoy recreational activities in the MNP and these activities would be impaired should Federal Defendant’s decision not to implement hunting ban regulations be set aside. Additionally, Safari Club and NRA support sustainable use conservation. Conservation and recreational interests maintained by Safari Club and NRA have long been accepted as a basis for Constitutional standing. *National Wildlife Federation v. Hodel*, 839 F.2d 694, 704 (D.C. Cir. 1988); *Fund for Animals v. Norton*, 295 F. Supp. 2d 1, 2 (D.D.C. 2003)

(noting that the court had earlier in the case allowed intervention of Safari Club and other hunting organizations in lawsuit concerning game animals); *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1119 (9th Cir. 2005) (“The ‘injury in fact’ requirement in environmental cases is satisfied if an individual adequately shows that she has an aesthetic or recreational interest in a particular place, or animal, or plant species and that that interest is impaired by a defendant's conduct.”) (citation omitted). Here, a court order granting the relief that PEER seeks would prevent the NPS from properly managing varmint/predator populations at a sustainable level, which would adversely impact Safari Club and NRA members who hunt both predator/varmints and the game species upon which those predator/varmints prey. The injury that Safari Club and NRA would sustain if PEER’s suit was successful provides the required harm to Safari Club and NRA’s interests.

The harm to Safari Club and NRA’s interests will be redressed (prevented) if PEER’s efforts fail. If PEER is unsuccessful in this litigation, Safari Club and NRA members will be able to continue to hunt varmints/predators and to continue to hunt other species without unnecessary limitation. In addition, continued hunting of varmints/predators will keep those species populations at managed and sustainable levels and will help to conserve the game species that these varmint/predators prey upon. If not set aside, the NPS’s decision will continue to

allow hunting as currently regulated by the State of California. It will also allow Safari Club and NRA members to continue to contribute to sustainable use conservation opportunities for varmint/predators and the species that those varmint predators prey upon.

Finally, standing for associations attempting to intervene on behalf of their members exists when (1) the members would otherwise have standing to sue in their own right; (2) the interests that the associations seek to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation in the lawsuit of the individual members. *Hunt v. Washington State Apple Advertising Com'n*, 432 U.S. 333, 341, (1977). Safari Club and NRA meet these requirements because (1) Safari Club and NRA members hunt and otherwise seek to enjoy the Mojave National Preserve; (2) the right to hunt, enjoy outdoor recreational opportunities to practice sustainable use conservation is germane to Safari Club and NRA's missions; and (3) the declarative and injunctive relief requested by PEER does not require the direct participation of Safari Club and NRA's individual members as parties.

B. Alternatively, Safari Club and NRA Should be Permitted to Intervene Permissively Under Rule 24(b)

Should this Court choose not to grant Safari Club leave to intervene as of right, Safari Club and NRA alternatively seek permissive intervention under Fed.

R. Civ. P. 24(b), which states:

On timely motion, the court may permit anyone to intervene who: . . . (B) has a claim or defense that shares with the main action a common question of law or fact. . . . (3) In exercising its discretion the Court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

This burden for permissive intervention is substantially less than the test for intervention as of right under Rule 24(a). As discussed above, this motion is timely.²

Safari Club and NRA should be entitled to permissive intervention because the defenses that Safari Club and NRA raise in its opposition to PEER's Amended Complaint share common factual and legal bases with PEER's claims. Safari Club's defenses include that hunting is mandatory on the MNP; that hunting in the MNP is governed by state not NPS regulations; that the NPS does not have discretion to unilaterally regulate such closures; and that the CDPA requires that the NPS coordinate with the California fish and game management authority on any proposed hunting closures.

² Permissive intervention is not a substitute for intervention as of right. If the party qualifies for intervention under Rule 24(a), the Court must grant that status. Fed. R. Civ. P. 24(a).

Since the propriety of federal hunting regulations and the NPS's authority to promulgate such regulations are at the core of PEER's Amended Complaint and Safari Club and NRA's defenses, Safari Club and NRA's defenses have questions of law and fact in common with PEER's claims.

Because of these common issues, the Court has the discretion to grant permissive intervention, which includes an analysis of undue delay and prejudice. Safari Club and NRA's permissive intervention at this stage of the litigation will not unduly prejudice or cause delay to any party. As discussed in reference to intervention as of right, Safari Club and NRA are filing this motion well before the Administrative Record has been lodged or any briefing commenced. Moreover, Safari Club's participation has already been approved by this court. Safari Club and NRA's intervention will not cause delay, much less undue delay, to any party. The involvement of other users of the affected federal lands is to be expected when bringing a lawsuit challenging federal action that affects the public's use of that land and its resources.

The damage that would be done to the recreational and conservation opportunities for Safari Club and NRA members and the harm to the management and conservation balance of the predators and prey wildlife on MNP by PEER's success in this litigation, justify the participation of Safari Club and NRA in this action, at least as permissive intervenors. If intervention as of right is not granted,

permissive intervention should be allowed.

C. Inclusion of NRA in Safari Club's Amicus Curiae Participation

Finally, in the event that this Court decides not to alter Safari Club's status in this litigation, Safari Club and NRA ask this court to allow NRA to join in Safari Club's existing amicus curiae participation.

V. CONCLUSION

Safari Club and NRA have made a timely request to intervene and have demonstrated significant interests in this case, due to their use and enjoyment of hunting and sustainable use conservation opportunities on MNP, their long-standing involvement in National Park Service wildlife issues as they relate to hunting and sustainable use conservation, and their observations and knowledge of hunting and wildlife conservation in the Mojave National Preserve. These interests would be harmed if PEER succeeds in its efforts to reverse the NPS's decision to reject a rulemaking petition that would ban and/or limit hunting on the MNP. Safari Club and NRA's interests would not be adequately represented by the existing parties to this litigation. On behalf of Safari Club's approximately 5,000 members in California and 53,000 members around the world and on behalf of the over 4 million NRA members throughout the United States, Safari Club and NRA respectfully request that this Court grant their motion to participate as defendant-intervenors in this litigation.

Dated: January 18, 2011.

Respectfully Submitted,
/s/ Anna M. Seidman
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of America

Public Employees for Environmental Responsibility v.

U.S. Department of the Interior *et al.*

Case No. 10-cv-01274 (ESH)

Safari Club International and National Rifle Association of

America

Motion for Leave to Intervene

Exhibit "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PUBLIC EMPLOYEES FOR)
ENVIRONMENTAL RESPONSIBILITY)
(PEER),) Case No. 10-cv-01274
) (ESH)
)
Plaintiff,) **DECLARATION OF**
) **REW GOODENOW**
)
v.)
)
U.S. DEPARTMENT OF THE INTERIOR)
AND MR. KENNETH SALAZAR in his)
official capacity as Secretary of the Interior,)
U.S. DEPARTMENT OF THE INTERIOR)
and)
U.S. NATIONAL PARK SERVICE (NPS))
AND MR. JONATHAN B. JARVIS in his)
official capacity as Director of the National)
Park Service)

Defendants,

SAFARI CLUB INTERNATIONAL,

Amicus Curiae Applicant.

I, Rew Goodenow, do upon personal knowledge declare as follows:

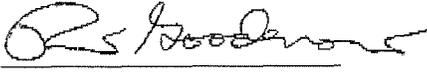
1. I am Chairman of the Legal Task Force of Safari Club International.
2. I am an attorney and principle in the law firm of Parsons, Behle and Latimer in Reno, Nevada.
3. Safari Club International (SCI) is a nonprofit corporation incorporated in the State of Arizona, operating under § 501(c)(4) of the Internal Revenue Code, with principal offices and place of business in Tucson, Arizona.

4. Its membership includes approximately 53,000 individuals from the United States and many of the countries around the world. It has approximately 5,000 members in California.
5. Its missions are the conservation of wildlife, protection of the hunter, and education of the public concerning hunting and its use as a conservation tool. SCI carries out its conservation mission through its sister organization, Safari Club International Foundation (SCIF).
6. SCIF'S missions include the conservation of wildlife, education of the public concerning hunting and its use as a conservation tool, and humanitarian services. More specifically, the conservation mission of SCIF is: (a) to support the conservation of the various species and populations of game animals and other wildlife and the habitats on which they depend; and (b) to demonstrate the importance of hunting as a conservation and management tool in the development, funding and operation of wildlife conservation programs.
7. SCI members' interests include the ability to enjoy recreational activities, including hunting, in the Mojave National Preserve. An important part of that experience for many hunters is the opportunity to hunt varmints and predators, both for recreational purposes and to keep such wildlife populations from having a detrimental impact on other desert wildlife species such as deer and bighorn sheep. SCI is an organization that promotes the principle and practice of sustainable use conservation, of which the existence of abundant hunting opportunities is an important component.
8. SCI members actively hunt in the Mojave National Preserve (MNP). Plaintiffs have filed this litigation in order to obtain regulations that will prevent hunting for species that SCI members hunt in the MNP. Plaintiffs also seek to close and/or limit hunting in the MNP during the times of the year that SCI members hunt. Plaintiffs' success in this litigation is very likely to have a detrimental impact on SCI members' hunting opportunities in the MNP.
9. SCI members actively engage in wildlife conservation efforts in the area of the MNP. SCI members volunteer hundreds of hours of time to repair and renovate water developments that are utilized by most of the MNP resident wildlife. As part of those repairs and renovations, SCI members have incorporated safeguards to prevent desert tortoises from becoming trapped in these guzzlers and drinkers.

10. SCI has significant experience in wildlife conservation and management litigation and has participated as intervenor, plaintiff or amicus in federal Endangered Species Act, Administrative Procedure Act, National Environmental Policy Act, National Park Service Organic Act and other wildlife conservation and management litigation involving hunting and wildlife management on National Park Service lands (elk management on Rocky Mountain National Park, deer management on Valley Forge National Historical Park); Wild Horse and Burro Management (Nevada and California herds); wolf delisting and management (Western Great Lakes and Northern Rocky Mountain delisting and Central Idaho and Yellowstone area experimental wolf populations); grizzly bear delisting (Northern Rocky Mountains); trapping of Canadian lynx (Maine and Minnesota); Florida black bear listing (Georgia and Florida); and polar bear listing and importation (two cases as plaintiff).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, as provided by 28 U.S.C. § 1746.

Executed this 21 day of September 2010 in Reno, Nevada.

By: 
Rew Goodenow

Public Employees for Environmental Responsibility v.

U.S. Department of the Interior *et al.*

Case No. 10-cv-01274 (ESH)

Safari Club International and National Rifle Association of

America

Motion for Leave to Intervene

Exhibit "B"

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR
ENVIRONMENTAL
RESPONSIBILITY (PEER),

Case No. 10-cv-01274
(ESH)

Plaintiff,

**DECLARATION OF
CLIFTON
MCDONALD**

v.

U.S. DEPARTMENT OF THE
INTERIOR AND MR. KENNETH
SALAZAR, in his official capacity as
Secretary of the Interior, U.S.
DEPARTMENT OF THE INTERIOR

U.S. NATIONAL PARK SERVICE
(NPS) AND MR. JONATHAN JARVIS,
in his official capacity as Director of the
National Park Service.

Defendants,

SAFARI CLUB INTERNATIONAL,

Defendant-Intervenor Applicant.

I, Clifton Mervyn McDonald, do upon personal knowledge declare as follows:

1. I reside at 2128 El Monte, Needles, California 92363.
2. My date of birth is October 15, 1948.
3. I am a member of Safari Club International and have been a member for eight years.

4. I am a member of the National Rifle Association of America.
5. I have been a hunter and a wildlife conservationist for close to half a century.
6. I have hunted throughout the western United States, for elk in Montana; for elk, deer, antelope, bear, turkey, quail, dove, and waterfowl in New Mexico; for elk, deer and varmints in Colorado; for elk, quail, dove, varmints and waterfowl in Arizona; for antelope and varmints in Wyoming; and for deer, antelope, dove, quail, rabbits, pheasant, waterfowl, varmints and wild pigs in California. I have also trapped animals in New Mexico and California.
7. Outside the United States, I have hunted for Wildebeest, Kudu, Impala, Blesbuck, Red Hartebeest, Warthog and Gemsbok in South Africa.
8. I have been hunting in the area of the Mojave National Preserve (MNP) for decades, long before it was designated as a preserve. At age seven, I shot my first rabbit on the grounds of what now is the MNP.
9. There are few people in this country who know the landscape, wildlife and interaction between species of the Mojave National Preserve better than I do.
10. Over the last many years, I have devoted hours and hours of my personal time to the Mojave National Preserve to make certain that the preserve's wildlife is conserved and that the MNP is administered the way Congress intended.
11. During the last 15 years, I have hunted in the Mojave National Preserve at least 10-12 times each year. I spend approximately 40 days each year hunting in the preserve which collectively translates to approximately 600 days over the last 15 years..

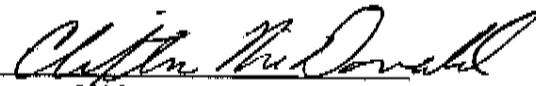
12. In the MNP, I have hunted deer, quail, chukar, dove, rabbits, waterfowl and varmints (coyote, bobcat, badger and fox). I also trapped in the preserve before traps were outlawed.
13. I spend much of my time in the preserve in activities other than hunting. I organized "Water for Wildlife" 6 years ago and have repaired over sixty wildlife drinkers and springs on the MNP. These water sources are used by all desert wildlife. Several times a year, I organize volunteers to repair and restore artificial water developments that provide water for all desert wildlife. We donate the manpower and materials to make certain that the wildlife of the East Mojave area have sufficient water to survive the area's drought conditions. In restoring these water developments, we frequently renovate the existing apparatus to make sure that the drinkers cannot accidentally trap any desert tortoises that might seek water from the water source. As of today, I have over 500 volunteers on my email list. Over the last six years these volunteers have repaired/restored over 90 wildlife drinkers.
14. During the hundreds of days that I have spent in the MNP over the last fifteen years, I have only seen one desert tortoise. Five years ago, I spotted the tortoise on Landfair Road, walking alongside the road as I drove by.
15. Although I have never directly witnessed a predator attacking any desert tortoises, I have seen tortoise shells under power poles in the MNP that appear to be what is left of tortoises that have been preyed upon by other wildlife.
16. Those who seek to eliminate predator hunting in the preserve do not understand how predator hunting benefits both the preserve and those who seek to enjoy the preserve resources.
17. I know from personal experience that public safety is very important on the MNP. If coyotes are not hunted, they will lose their fear of the general public. Coyotes will make more frequent visits to camp sites, visitor centers and other populated areas. Coyotes are known to spread rabies and an increase in the coyote population could bring an increased risk of rabies. Coyotes are also a known predator of

desert tortoises and an increased coyote population will inevitably place more tortoises at risk.

18. During the fifteen years that I have hunted on the MNP, coyotes have been a hunted population. During that time, the hunting of coyotes has kept their populations under control and has prevented coyotes from having a harmful impact on deer, bighorn sheep, birds and reptile populations. In addition, the National Park Service is looking to introduce antelope to the preserve and these antelope will be at risk if the coyote population is not kept under control.
19. I own 40 acres of land in the middle of the Mojave National Preserve. If coyote and other varmint hunting is closed, I will lose my ability to protect my property from these aggressive predators.
20. Every year, while hunting deer and upland gamebirds, I hunt for rabbits, coyotes, fox and bobcat. I also spend several days each year just hunting coyotes and rabbits. My recreational hunting opportunities, success and enjoyment would be severely harmed if the Plaintiffs succeed in obtaining the regulations that they want the National Park Service to adopt.
21. In addition, under existing law, rabbit season opens on July 1st and dove season opens on September 1st. For the last 15 years, I have spent several days on the MNP hunting rabbits in July, August, and September and several days hunting dove in September. My recreational hunting opportunities, success and enjoyment would be severely harmed if the Plaintiffs were successful in obtaining regulations that limit the MNP's hunting seasons.
22. I plan to hunt on the MNP as often as I am able and for as long as I am able. If Plaintiffs are successful in their efforts to change the regulations for hunting in the MNP, it will harm my ability to continue to hunt and enjoy the preserve, with my two sons. Both my sons are Arizona residents and have purchased lifetime California hunting licenses for \$1200.00 each. Each year we enjoy rabbit, dove and varmint hunting on the preserve, not to mention the volunteer hours my sons have donated to Water for Wildlife on the MNP.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, as provided by 28 U.S.C. § 1746.

Executed this 6th day of January 2011 in Needles, California.

By: 
Clifton, McDonald

Public Employees for Environmental Responsibility v.

U.S. Department of the Interior *et al.*

Case No. 10-cv-01274 (ESH)

Safari Club International and National Rifle Association of

America

Motion for Leave to Intervene

Exhibit "C"

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR
ENVIRONMENTAL
RESPONSIBILITY (PEER),

Plaintiff,

v.

U.S. DEPARTMENT OF THE
INTERIOR AND MR. KENNETH
SALAZAR, in his official capacity as
Secretary of the Interior, U.S.
DEPARTMENT OF THE INTERIOR

U.S. NATIONAL PARK SERVICE
(NPS) AND MR. JONATHAN JARVIS,
in his official capacity as Director of the
National Park Service.

Defendants,

SAFARI CLUB INTERNATIONAL,

Defendant-Intervenor Applicant.

Case No. 10-cv-01274
(ESH)

**DECLARATION OF
CHRISTIAN
GUNTERT**

I, Christian Henry Guntert, do upon personal knowledge declare as follows:

1. I am a resident of 12625 Meadow Street, Victorville, California.
2. I am 52 years old and was born on March 14, 1958.
3. In 2006, I became a Life Member of SCI and was, at one time, a member of the Los Angeles Chapter of SCI.

4. I am a member of the National Rifle Association of America.
5. I have been a hunter for 44 years and started out hunting predators and varmints.
6. I have hunted deer, elk, quail, chukkar, ducks, geese, pheasants, turkeys, varmints, bobcat, coyote, fox, and rabbits in Washington State; deer and coyote in Utah; elk and coyote in Colorado; deer, elk, wild pig, quail, chukkar, dove, ducks, geese, pheasants, turkeys, varmints, bobcat, coyote, fox, and rabbit in California; and deer javelin, quail, dove, ducks, varmints, bobcat, coyote, fox and rabbit in Arizona.
7. In South Africa, I hunted impala.
8. Each year, I hunt about 45 days in the Mojave National Preserve (MNP). I estimate that I have spent an average of three days a month every month hunting the MNP, with the exception of October. In October, I hunt about twelve days.
9. There is not a day that I have spent in the preserve that I have not hunted at least opportunistically for bobcat, coyote, or fox (if in season).
10. I started hunting in the MNP in 2004, a year after I moved to Southern California.
11. I hunt deer quail, chukkar, bobcat, coyote, fox, dove and rabbits in the MNP.
12. While hunting in the preserve, I have seen many desert tortoises, in particular on Black Canyon Road as well as in Lanfair Valley. When I have seen tortoises in Lanfair Valley, they are usually in the process of crossing a road. In those cases, I have just stopped and waited for the little guys to cross before I moved ahead.
13. One morning one spring, I was driving on Black Canyon Road and saw six tortoises within a two mile stretch of paved road. The tortoises were of various sizes and were moving in different directions. The area was heavily traveled and there was a fair amount of traffic driving

through the area. I slowed several vehicles down and spoke with the drivers to let them know that there were a lot of tortoises moving around at the time. The vehicles that I alerted all drove around the tortoises, as did I.

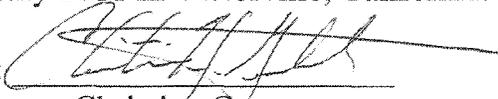
14. Hunting brings many benefits to the MNP and its wildlife. Hunting reduces the number of human/predator interactions and as a result lessens the incidences of disease – specifically plague and rabies.
15. Predators that are not hunted lose their fear of humans. They become more opportunistic and bolder in approaching humans and will gladly kill and eat pets. At times, they even directly attack humans.
16. To my knowledge, predators have been hunted continuously prior to and since the National Park Service took over administration of the MNP. During that time, I have not observed any reduction in any of the wildlife species that live in the preserve, but I have noted that the predator population has been kept in check. In addition, I note that because they are hunted, predator interactions with humans have been minimal.
17. While hunting deer and upland game birds in the MNP, I also hunt rabbits, coyotes, fox and bobcat (in accordance with California Department of Fish and Game regulations). As I stated above, on every day that I've spent in the preserve, I have looked for predators to hunt – even during times when seasons for other species were not open.
18. If Plaintiffs are successful in obtaining the changes to MNP preserve hunting regulations, my hunting recreation, and in particular my ability to hunt varmints and other game species, would be severely affected.
19. If Plaintiffs succeed in their efforts to reduce hunting seasons in the MNP, I would lose significant hunting time and opportunities. I have hunted the MNP for rabbits in July, August and September and have spent several days hunting dove in September.
20. As a public employee myself, I find it offensive that plaintiffs refer to themselves as “Public Employees for Environmental Responsibility” and that they have filed this lawsuit professing to speak to “environmental responsibility.” This group does not represent my

interests or the interests of my friends who are either current or retired public employees and Plaintiffs do not have a right to dictate one particular version of "environmental responsibility." The hunters and conservationists who hunt and otherwise conserve wildlife in the MNP are not only aware of environmental responsibility but engage in it on a regular basis in the MNP.

21. To my knowledge unlike members of the hunting community including myself, Plaintiffs have not been involved in any conservation projects to create better habitat and water source improvements for the entire desert ecosystem within the Mojave National Preserve area.
22. Together with other hunter conservationists, I have helped organize and participate in many on the ground volunteer projects to repair and restore water developments throughout the MNP area. We provide the tools, materials and labor to restore the water sources for desert wildlife, including the desert tortoises. We also make certain that these water sources are safe and do not accidentally trap desert tortoises.
23. If the Plaintiffs are successful in obtaining the changes to the hunting regulations described in their lawsuit, it will cut the number of days that I can hunt in the MNP by half (three days a month for seven months of the year) and would significantly reduce the number of species that I can legally hunt.
24. It is my plan to continue hunting in the MNP as often as I can and for as long as I am able.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, as provided by 28 U.S.C. § 1746.

Executed this 6th day of January 2011 in Victorville, California.

By: 
Christian Guntert

Public Employees for Environmental Responsibility v.

U.S. Department of the Interior *et al.*

Case No. 10-cv-01274 (ESH)

Safari Club International and National Rifle Association of

America

Motion for Leave to Intervene

Exhibit "D"

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR
ENVIRONMENTAL
RESPONSIBILITY (PEER),

Plaintiff,

v.

U.S. DEPARTMENT OF THE
INTERIOR AND MR. KENNETH
SALAZAR, in his official capacity as
Secretary of the Interior, U.S.
DEPARTMENT OF THE INTERIOR

U.S. NATIONAL PARK SERVICE
(NPS) AND MR. JONATHAN JARVIS,
in his official capacity as Director of the
National Park Service.

Defendants,

SAFARI CLUB INTERNATIONAL,

Amicus Curiae Applicant.

Case No. 10-cv-01274
(ESH)

**DECLARATION OF
RAYMOND H.
OSGOOD JR.**

I, Raymond H. Osgood Jr., do upon personal knowledge declare as follows:

1. I reside at 1209 Via Sendero Vista, Escondido, California 92029.
2. I am 66 years old and was born on November 7, 1943.

3. I have been a member of Safari Club International for over five years and have also been a member of the San Diego Chapter of SCI.
4. I have been a hunter for 59 years and obtained my first hunting license in California when I was eight years old.
5. I have hunted throughout the United States; in California for antelope, deer, bear, predators (coyote, bobcat and fox), pheasants, quail, chukar, dove, rabbits, turkey, and waterfowl; in Arizona for deer, predators, quail and waterfowl; in Nevada for deer predators, chukar, and quail; in Utah for deer and predators; in Colorado for deer, elk, bear and predators; in Idaho for deer, elk, bear and grouse; in Texas for predators; and in Michigan for deer and turkey.
6. Outside the United States, I have hunted sheep and caribou in Yukon and Northwest Territories and in Argentina for dove and waterfowl.
7. I have hunted in the Mojave National Preserve (MNP) since the mid 1960's and I believe that I have hunted there every year since then.
8. In the preserve I have hunted deer, coyote, bobcat, fox, badger, quail, chukar, rabbits and dove.
9. Although I have seen many desert tortoises in the MNP, I have never seen one in any of the higher elevations (above 4000 feet) where most of the hunting takes place. I have seen desert tortoises in all of the low lying elevations in places like the area around the Cima Road exit from Interstate 15, all through the valley floor of the Ivanpah Valley south to Kelso and on south to Interstate 40.
10. I have never seen a desert tortoise that appeared to have been shot.
11. I have seen two different mature tortoise remains that appeared to have been killed by coyotes since significant

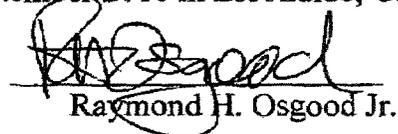
portions of corners of each of their shells were chewed away. I also saw some desert tortoises that were hit by cars on the Kelso Cima Road down close to Kelso.

12. I know from personal experience that predator hunting benefits rather than harms the MNP and its wildlife. Larger predators like bobcats and coyotes take a significant number of deer and desert bighorn sheep especially in the years when the rabbit population is low.
13. I have also seen two lions in the preserve over the last ten years. Prior to that, I had never seen a lion or even a lion track. Lions are protected, but I am sure that lions are currently taking many of the desert sheep in the preserve area as I no longer see desert sheep in many of their old haunts.
14. If Plaintiffs succeed in obtaining the regulatory changes that they seek in this lawsuit, it will eliminate varmint and predator hunting and will eliminate rabbit hunting for three months of the normal season. These changes would seriously harm my hunting activities, deprive me of varmint and predator hunting opportunities, and would generally reduce the number of days that I can hunt in the MNP.
15. In addition, the increased presence of predators in the preserve (due to the fact that predator populations would no longer be huntable) would jeopardize the deer and other prey populations that I enjoy hunting in the preserve.
16. I plan to continue hunting in the MNP as long as I am able.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, as provided by 28 U.S.C. § 1746.

Executed this 24 day of September 2010 in Escondido, California.

By:


Raymond H. Osgood Jr.

Public Employees for Environmental Responsibility v.

U.S. Department of the Interior *et al.*

Case No. 10-cv-01274 (ESH)

Safari Club International and National Rifle Association of

America

Motion for Leave to Intervene

Exhibit "E"

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PUBLIC EMPLOYEES FOR)
ENVIRONMENTAL RESPONSIBILITY,)

Plaintiff,)

v.)

U.S. DEPARTMENT OF THE INTERIOR)
AND KENNETH SALAZAR, in his)
official capacity as Secretary of the)
Interior, U.S. Department of the Interior et)
al.,)

Defendants,)

SAFARI CLUB INTERNATIONAL,)

Defendant-Intervenor Movant.)

Case No. 10-cv-01274(ESH)

**DECLARATION OF CHRIS
W. COX**

I, Chris W. Cox, do upon personal knowledge declare as follows:

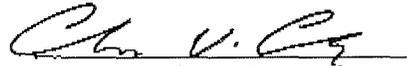
1. I am the Executive Director of the National Rifle Association of America's Institute for Legislative Action.
2. I am authorized to speak for and represent the National Rifle Association of America in litigation pursuant to Article X Section 1 of the bylaws of the National Rifle Association of America.
3. The National Rifle Association of America is a 501(c)(4) tax-exempt social welfare organization created in part to promote, protect, and preserve America's hunting heritage for the common good and

general welfare of the public. Among its purposes and objectives are, “[t]o promote hunter safety, and to promote and defend hunting as a shooting sport and as a viable and necessary method of fostering the propagation, growth and conservation of our renewable wildlife resources (NRA Bylaws Article II Section 5).

4. National Rifle Association of America members hunt in many states, including California where the Mojave National Preserve is located.
5. National Rifle Association of America members hunt for varmints/predators and other species and engage in sustainable use conservation in the Mojave National Preserve.
6. National Rifle Association of America members are confident that their hunting activities cause no harm to desert tortoises in the Mojave National Preserve, and that these hunting pursuits likely have a beneficial impact in light of the fact that varmint/predator hunting reduces the populations of species that prey on desert tortoises.
7. If the Plaintiffs in this litigation succeed in their efforts to have the Court set aside the National Park Service’s decision to reject Plaintiff’s rulemaking petition, National Rifle Association members will be harmed by the consequent ban on varmint/predator hunting and other limitations on hunting in the Preserve.
8. Not only would Plaintiffs’ success prevent National Rifle Association of America members from being able to hunt varmints/predators, but the resultant increase in varmint/predator numbers in the preserve from the lack of hunting will have a detrimental impact on other species that NRA members hunt in the preserve.
9. If Plaintiffs succeed in this litigation, the National Rifle Association of America will be harmed in its work towards promoting sustainable use as a wildlife and management tool and supporting the proper management of predator species.
10. The National Rifle Association of America seeks to participate in coordination with Safari Club International as a Defendant-Intervenor in this action.

In accordance with 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of January 2011, at ~~Fairfax, Virginia~~ ^{Las Vegas, Nevada}.



Chris W. Cox, Executive
Director
National Rifle Association of
America,
Institute for Legislative Action

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR)
ENVIRONMENTAL RESPONSIBILITY,)

Plaintiff,)

v.)

U.S. Department of the Interior *et al.*,)

Defendants,)

SAFARI CLUB INTERNATIONAL and)
NATIONAL RIFLE ASSOCIATION OF)
AMERICA,)

Defendant-Intervenor Movants.)

Case No. 10-cv-01274(ESH)

PROPOSED ORDER

Upon consideration of the Motion by Safari Club International and the National Rifle Association of America for Leave to Participate as Defendant-Intervenors, any opposition to the motion and the entire record in this matter,

IT IS HEREBY ORDERED that the Motion by Safari Club International and the National Rifle Association of America for Leave to Participate as Defendant-Intervenors is granted.

Dated this _____ day of _____, 2011.

Ellen Segal Huvelle
United States District Judge