

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

---

CENTER FOR BIOLOGICAL DIVERSITY et al., )

Plaintiffs )

v. )

Civ. Action No. 10-2007 (EGS)

LISA P. JACKSON, in her official capacity )  
as Administrator, United States )  
Environmental Protection Agency, )

and )

ENVIRONMENTAL PROTECTION AGENCY, )

Defendants, )

and )

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

Intervenor-Defendants, )

and )

NATIONAL SPORTS SHOOTING )  
FOUNDATION, INC., )

Intervenor-Defendant, )

and )

ASSOCIATION OF BATTERY RECYCLERS, )

Intervenor-Defendant. )

---

**JOINT MOTION FOR EXTENSION OF TIME TO FILE  
RECOMMENDATIONS FOR FURTHER PROCEEDINGS**

Plaintiffs Center for Biological Diversity, Public Employees for Environmental Responsibility, and Project Gutpile (collectively, “CBD”), Defendants Lisa P. Jackson and the U.S. Environmental Protection Agency (collectively, “EPA” or “Agency”), and Intervenor-Defendants National Rifle Association of America, Safari Club International, National Shooting Sports Foundation, Inc., and Association of Battery Recyclers, hereby jointly move to extend the deadline to file recommendations for further proceedings. The Court’s order of September 29, 2011 set a deadline of October 31, 2011 for the Parties to submit such recommendations. The Parties have conferred on this issue, but respectfully request a 45-day extension, until December 15, 2011, to allow additional time to explore the possibility of submitting a joint proposal to govern further proceedings. In support of this motion, the Parties state as follows:

This suit challenges EPA’s denials of Plaintiffs’ petition under section 21 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2620, for EPA to initiate proceedings for the issuance of rules under section 6(a) of TSCA, 15 U.S.C. § 2605, to prohibit the manufacturing, processing, and distribution in commerce in the United States of both lead ammunition (including bullets and shotgun pellets) and lead fishing tackle (including sinkers, jig heads, weights, and all other fishing tackle). Plaintiffs submitted this petition to EPA on August 3, 2010.

EPA denied Plaintiffs’ request for a ban on lead shot and bullets on August 27, 2010. The Agency meanwhile opened a period for public comment on the request to ban lead in fishing gear, concluding on September 15. During this time, the Agency received more than 6,000 comments. Those comments and other documents relating to EPA’s consideration of the petition are available at [www.regulations.gov](http://www.regulations.gov), Docket ID# EPA-HQ-OPPT-2010-0681. On November 4, 2010, EPA denied Plaintiffs’ request to ban lead in fishing gear.

On November 23, 2010, Plaintiffs filed a complaint in this Court challenging EPA's denials of the Plaintiffs' petition. On February 8, 2011, EPA filed a partial answer responding to Plaintiffs' allegations about lead in fishing gear, and a partial motion to dismiss regarding Plaintiffs' challenge to the denial of the request for a ban on lead shot and bullets. Intervenor-Defendant National Sports Shooting Foundation likewise filed a partial answer and partial motion to dismiss. Intervenor-Defendants Association of Battery Recyclers, National Rifle Association of America, and Safari Club International also filed answers to the complaint.

On September 29, 2011, the Court issued an order granting Defendants' partial motions to dismiss the lead shot and bullets claim. The Court's Order also directed the Parties to file a joint recommendation for further proceedings by October 31, 2011, or if the Parties were unable to agree on a joint recommendation, to each file a separate recommendation by that date.

In accordance with the Court's order, the Parties conferred by phone on October 19, 2011, in order to discuss a possible joint recommendation to govern further proceedings. During that call, Plaintiffs indicated that they would be better able to gauge their preferred approach to this litigation after having the opportunity to review the comments submitted to EPA regarding their petition on lead fishing gear. The Parties believe an extension of 45 days would allow Plaintiffs sufficient time to review the more than 6,000 such comments, and would enable the Parties to productively discuss a joint recommendation for further proceedings in this case.

Therefore, the Parties respectfully move the Court to extend their time to file recommendations for further proceedings in this case, and to direct the parties to file such recommendations on or before December 15, 2011.

Respectfully submitted,

Dated: October 28, 2011

IGNACIA S. MORENO

Assistant Attorney General

/s/ Madeline Fleisher

MADELINE FLEISHER, MA Bar #670262  
Environmental Defense Section  
United States Department of Justice  
P.O. Box 23986  
Washington, D.C. 20026-3986  
Telephone: (202) 514-0242  
Fax: (202) 514-8865  
madeline.fleisher@usdoj.gov

*Counsel for EPA*

/s/ Michael Steven Snarr

Robert N. Steinwurtzel (D.C. Bar No. 256743)  
Michael Steven Snarr (D.C. Bar No. 474719)  
BAKER & HOSTETLER LLP  
1050 Connecticut Avenue, NW  
Suite 1100  
Washington, DC 20036  
Tel: (202) 861-1710  
Fax: (202) 861-1783  
Email: msnarr@bakerlaw.com

*Counsel for Association of Battery Recyclers, Inc.*

/s/ Adam Keats

Adam Keats (*pro hac vice*, Cal. Bar No. 191157)  
Jaclyn Lopez (*pro hac vice*, Cal. Bar No. 258589)  
CENTER FOR BIOLOGICAL DIVERSITY  
351 California St., Suite 600  
San Francisco, CA 94104  
Telephone: 415-436-9682  
Facsimile: 415-436-9683  
akeats@biologicaldiversity.org  
jlopez@biologicaldiversity.org

William J. Snape, III (DC Bar No. 455266)  
CENTER FOR BIOLOGICAL DIVERSITY  
5268 Watson Street, NW  
Washington, DC 20016  
Telephone: 202-537-3458  
Telephone: 202-536-9351  
Facsimile: 415-436-9683  
billsnape@earthlink.net

/s Anna M. Seidman

Anna M. Seidman

D.C. Bar. No. 417091  
501 2<sup>nd</sup> Street NE  
Washington, D.C. 20002  
[aseidman@safariclub.org](mailto:aseidman@safariclub.org)  
202-543-8733

*Counsel for Safari Club International*

/s/ Christopher L. Bell  
Roger R. Martella, Jr. (Bar No. 976771)  
Christopher L. Bell (Bar No. 412857)  
Ragu-Jara Gregg (Bar No. 495645)  
SIDLEY AUSTIN LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000  
(202) 736-8711 (fax)

*Attorneys for Defendant-Intervenors*  
*NATIONAL SHOOTING SPORTS*  
*FOUNDATION.*

*Of Counsel*  
Lawrence G. Keane  
General Counsel  
National Shooting Sports Foundation  
11 Mile Hill Road  
Newtown, CT 06470-2359  
(203) 426-1320

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion was filed using the Court's electronic case filing system this 28th day of October, 2011, which results in service on all counsel of record registered on the case management/electronic case filing ("CM/ECF") system.

/s/ Madeline Fleisher  
MADELINE FLEISHER