

**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.)

**DEFENDANTS' STATUS REPORT IN RESPONSE TO THE COURT'S ORDER OF
MARCH 1, 2012**

This suit challenges Defendant the Environmental Protection Agency's ("EPA's") denials of Plaintiffs' requests 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 its requests to EPA on August 3, 2010. EPA denied Plaintiffs' request for a ban on lead shot and bullets on August 27, 2010, and on November 4, 2010, the Agency 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' petitions. 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 petition for a ban on lead shot and bullets. The Court granted EPA's partial motion to dismiss on September 29, 2011.

On November 17, 2011, Plaintiffs CBD and Project Gutpile, along with a third entity, Loon Lake Loon Association, filed a petition ("New Fishing Tackle Petition" or "New Petition") under TSCA section 21, 15 U.S.C. § 2620, requesting EPA to "evaluate the unreasonable risk of injury to the environment from fishing tackle containing lead . . . of various sizes and uses that are ingested by wildlife, resulting in lead exposure" and to initiate proceedings for the issuance of a rulemaking under section 6(a) of TSCA, 15 U.S.C. § 2605, "to adequately protect against such risks." EPA denied the New Petition on February 14, 2012, and published a notice containing its rationale in the Federal Register on February 22, 2012. 77 Fed. Reg. 10,451 (Feb. 22, 2012). On February 29, 2012, Plaintiffs and Intervenors requested two additional weeks to

discuss their recommendations for further proceedings in this case. On March 1, the Court granted that request and ordered the parties to file either a joint or individual status reports by March 15, 2012.

Plaintiffs have indicated to EPA that they now wish to dismiss this action, and filed a motion for voluntary dismissal on March 15, 2012. Defendant-Intervenor Association of Battery Recyclers (“ABR”) has filed a motion seeking a stay of the case until April 30, 2012 rather than dismissal. EPA consents to Plaintiffs’ voluntary dismissal motion, and therefore believes it is neither necessary nor appropriate to stay this matter as requested by ABR.

Respectfully submitted,

Dated: March 15, 2012

IGNACIA S. MORENO
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Response was filed using the Court's electronic case filing system this 15th of March, 2012, 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