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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**
11

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

14 Plaintiffs,

15 v.

16 United States Forest Service,

17 Defendant,

18 and

19 National Shooting Sports Foundation,

20 Applicant for
21 Intervention

No. CV-12-8176-PCT-SMM

**NATIONAL SHOOTING SPORTS
FOUNDATION, INC.'S MOTION FOR
LEAVE TO INTERVENE**

(Expedited Ruling Requested)

22 National Shooting Sports Foundation, Inc. (“NSSF”), a Connecticut corporation,
23 moves the Court for leave to intervene as a defendant in this case pursuant to Rule 24 of
24 the Federal Rules of Civil Procedure. As set forth below, NSSF is entitled to intervene of
25 right under Rule 24(a)(2) because NSSF has protectable interests that directly relate to
26 Plaintiffs’ claims and will be impaired by the declaratory and injunctive relief sought by

1 Plaintiffs, and because the Defendant, the United States Forest Service (“Forest Service”),
2 may not adequately protect NSSF’s members’ economic, recreational and legal interests.
3 Alternatively, NSSF’s defenses to Plaintiffs’ claims raise questions of fact or law in
4 common with the main action against the Forest Service, entitling NSSF to intervene
5 permissively under Rule 24(b).

6 This motion is supported by the declaration of Lawrence Keane, Senior Vice
7 President, Assistant Secretary and General Counsel of NSSF, filed herewith. NSSF also
8 has lodged its proposed answer concurrently with this motion, as required by Rule 24(c).

9 **I. SUMMARY OF MATERIAL FACTS.**

10 **A. Overview of NSSF’s Interests.**

11 As set forth in Mr. Keane’s declaration, NSSF is the trade association for the
12 firearms and ammunition industry, and its members will be directly and adversely
13 impacted by the outcome of this litigation. NSSF has more than 13,000 members
14 including federally-licensed firearms manufacturers, distributors, and retailers; companies
15 manufacturing, distributing, and selling shooting and hunting-related goods and services;
16 sportsmen’s organizations; public and private shooting ranges; gun clubs; publishers; and
17 individual recreational target shooters and hunters.¹ Formed in 1961, NSSF promotes,
18 protects and preserves hunting and shooting sports, and supports America’s traditional
19 hunting heritage and firearms freedoms.²

20 NSSF’s members manufacture, distribute, sell and use traditional ammunition
21 made with lead components.³ Approximately 95% of the domestically manufactured
22

23 ¹ Declaration of Lawrence Keane in Support of National Shooting Sports Foundation,
Inc.’s Motion for Leave to Intervene (“Keane Decl.”) at ¶ 6.

24 ² *Id.*

25 ³ *Id.* at ¶ 8 (explaining that the components of ammunition typically include a primer,
26 propellant, the projectile – shot or bullet, and the casing).

1 ammunition is traditional ammunition made with lead bullets or shot, and NSSF members
2 manufacture over 90% of domestically manufactured traditional ammunition.⁴ NSSF's
3 members, and the ammunition and firearms industry as a whole, provide approximately
4 287,986 jobs in the U.S., and have an overall annual economic impact of almost
5 \$49 billion.⁵ More than 50 million hunters and target shooters in America purchase and
6 use traditional ammunition containing lead components.⁶

7 **B. Plaintiffs' Complaint and the Impact of the Requested Relief.**

8 In the Complaint, Plaintiffs assert 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.⁷

14 Plaintiffs assert a single RCRA claim. They contend that the Forest Service has
15 contributed and is contributing to the disposal of hazardous waste that may present an
16 imminent and substantial endangerment in violation of RCRA.⁸ Specifically, Plaintiffs
17 assert that the Forest Service has and will continue to violate RCRA by (1) failing to use
18 its authority over the management of National Forest System land to halt the "disposal" of
19 lead in the form of spent ammunition from hunters; and (2) issuing Special Use permits to
20

21 _____
22 ⁴ *Id.*

23 ⁵ *Id.* at ¶ 7.

24 ⁶ *Id.*

25 ⁷ *See, e.g.,* 42 U.S.C. §§ 6921-6939b; *Chemical Waste Management, Inc. v. Hunt,*
Governor Of Alabama, et al., 504 U.S. 334, 337 n.1 (1992).

26 ⁸ Complaint at ¶ 47.

1 hunting guides and outfitters that fail to prohibit the use of lead ammunition.⁹ While
2 Plaintiffs' claim in this case is limited to the Kaibab National Forest, a finding by this
3 Court that lead ammunition lawfully discharged by hunters, but not retrieved or recovered,
4 violates RCRA will be far-reaching and extend to any land on which hunting and related
5 recreational activities take place, regardless of its ownership, as Plaintiffs undoubtedly
6 intend.

7 Reductions or, even worse, a prohibition on the use of traditional ammunition for
8 hunting on just National Forest System land would injure NSSF's members. Domestic
9 ammunition manufacturers cannot, except at great cost, re-design their products, retool or
10 repurchase new manufacturing equipment, or significantly change their manufacturing
11 processes.¹⁰ Ammunition is produced in high speed and high volume automated
12 processes using expensive, close-tolerance, and purpose-built machinery, all based on
13 decades of manufacturing experience.¹¹ In other words, it is not possible to simply
14 replace lead with an alternative raw material in existing ammunition manufacturing
15 processes. Before such a major shift in an everyday consumer product can occur, the
16 efficacy, consumer acceptance and environmental, health, and safety impacts of
17 substitutes would have to be evaluated to determine whether a switch to alternative
18 ammunition is even feasible.¹²

19 In today's fragile economy, the economic interests of a \$49 billion industry
20 providing more than 287,000 jobs cannot be overstated. Domestic ammunition
21 manufacturers operate in a very competitive economic environment, with low profit
22

23 ⁹ *Id.* at ¶¶ 34, 45-46.

24 ¹⁰ Keane Decl. at ¶ 10.

25 ¹¹ *Id.*

26 ¹² *Id.*

1 margins.¹³ First, adequate alternatives for traditional ammunition that can be mass-
2 produced would have to be found, and then the industry needs to find the massive capital
3 infusion to pay to reinvent itself.¹⁴ Second, the cost to the consumer must be considered.
4 Based on NSSF research, it is estimated that banning traditional ammunition will increase
5 the cost of ammunition, on average, up to 190%.¹⁵ NSSF members (which include sports
6 shooters and hunters), firearms dealers, shooting ranges, Federal and State law
7 enforcement agencies, and the U.S. military, will pay far more for ammunition if the use
8 of lead components were restricted as a result of Plaintiffs' claim.¹⁶ These increased costs
9 will in turn cause reduced sales and the loss of related jobs, as well as a reduction in
10 hunting and related recreational activities.¹⁷ Higher prices for ammunition will also cause
11 a reduction in the collection of the Federal Firearms and Ammunition and Excise Tax
12 ("FAET") (11% on taxable ammunition sales), which is a primary source of wildlife
13 conservation funding in the U.S. All of the FAET revenues go to the U.S. Fish and
14 Wildlife Service, which then distributes the funds to the States for wildlife and sport fish
15 restoration.¹⁸

16 **II. NSSF MEETS THE STANDARD FOR INTERVENTION OF RIGHT**
17 **UNDER RULE 24(A)(2).**

18 NSSF is entitled to intervene as of right in this matter pursuant to Rule 24(a)(2)
19 because NSSF satisfies the traditional four-part test for intervention: (1) This motion is
20 timely; (2) NSSF and its members have significant, protectable interests relating to the

21 ¹³ *Id.* at ¶ 11.

22 ¹⁴ *Id.*

23 ¹⁵ *Id.* at ¶ 12.

24 ¹⁶ *Id.*

25 ¹⁷ *Id.*

26 ¹⁸ *Id.*

1 lawful use of lead ammunition for hunting and related recreational activities within the
2 Kaibab National Forest as well as on other land, which is the subject of this action;
3 (3) NSSF and its members are situated so that the disposition of this action may, as a
4 practical matter, impair or impede their ability to protect those interests; and (4) NSSF's
5 economic, recreation and legal interests may not be adequately represented by the Forest
6 Service, which, as a federal agency, has different interests and cannot be expected to
7 defend the private rights and interests of NSSF and its members.¹⁹

8 Rule 24(a)(2) requires a court, upon timely motion, to permit intervention of right
9 by anyone who "claims an interest relating to the property or transaction that is the subject
10 of the action, and is so situated that disposing of the action may as a practical matter
11 impair or impede the movant's ability to protect its interest, unless existing parties
12 adequately represent that interest."²⁰ In evaluating intervention under Rule 24(a)(2),
13 courts normally apply "practical and equitable considerations" and construe the rule
14 "broadly in favor of proposed intervenors."²¹ "[A] liberal policy in favor of intervention
15 services both efficient resolution of issues and broadened access to courts."²² As further
16 described by the Ninth Circuit, "the interest test is primarily a practical guide to disposing
17 of lawsuit by involving as many apparently concerned persons as is compatible with
18 efficiency and due process."²³

19 ¹⁹ See, e.g., *Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en
20 banc) (discussing intervention under Rule 24(a)(2) in the context of claims brought under
21 the National Environmental Policy Act); *Sw. Ctr. for Bio. Diversity v. Berg*, 268 F.3d 810,
817-18 (9th Cir. 2001).

22 ²⁰ Fed. R. Civ. P. 24(a)(2); see also *Wilderness Soc.*, 630 F.3d at 1178-1179.

23 ²¹ *Wilderness Soc.*, 630 F.3d at 1179 (citing *United States v. City of Los Angeles*, 288 F.3d
391, 397 (9th Cir. 2002)).

24 ²² *Id.*

25 ²³ *Id.* (quoting *County of Fresno v. Andrus*, 622 F.2d 436, 438 (9th Cir. 1980)); see also
26 *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967)).

1 Rule 24(a)(2) does not require a specific legal or equitable interest to support
 2 intervention. “Rather, it is generally enough that the interest is protectable under some
 3 law, and that there is a relationship between the legally protected interest and the claims at
 4 issue.”²⁴ A prospective intervenor “has a sufficient interest for intervention purposes if it
 5 will suffer a practical impairment of its interests as a result of the pending litigation.”²⁵ In
 6 reviewing this motion, this Court should accept as true the well-pleaded, non-conclusory
 7 allegations and evidence, including the facts set forth in Mr. Keane’s declaration filed in
 8 support of this motion.²⁶ As shown below, NSSF meets all of the requirements for
 9 intervention of right under Rule 24(a)(2).

10 **A. NSSF’s Motion Is Timely.**

11 This motion satisfies the timeliness element for intervention. In determining
 12 whether a motion to intervene is timely, this Court should evaluate three factors: (1) the
 13 stage of the proceeding in which the applicant seeks to intervene; (2) the prejudice to
 14 other parties; and (3) the reason for and length of any delay.²⁷

15 Here, the case was very recently remanded back to the Court following the
 16 Plaintiffs’ appeal to the Ninth Circuit challenging the Court’s dismissal of the Plaintiffs’
 17 complaint under Fed. R. Civ. P. 12(b)(1) for lack of Article III standing. The Ninth
 18 Circuit reversed the Court’s judgment and remanded the case for further proceedings. *See*
 19 *Ctr for Biological Diversity et al. v. United States Forest Service*, Case No. 13-16684,

21 _____
 22 ²⁴ *Id.* (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1484 (9th Cir. 1993)).

23 ²⁵ *Id.* (quoting *California ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir.
 2006)).

24 ²⁶ *Sw. Ctr.*, 268 F.3d at 819-20.

25 ²⁷ *See, e.g., Idaho Farm Bureau Fed. v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995);
 26 *United States ex rel. McGough v. Covington Technologies Company*, 967 F.2d 1391, 1394
 (9th Cir. 1992).

1 Memorandum (Dkt. # 50-1), at 5. The Ninth Circuit mandate remanding the case to the
2 Court was issued on March 8, 2016. (Dkt. #86).

3 In the proceedings before this Court prior to the Ninth Circuit appeal, NSSF timely
4 moved to intervene in the proceedings as a defendant. (Dkt. #54). The National Rifle
5 Association of America and Safari Club International also filed intervention motions (Dkt.
6 #28-37). The Court ultimately denied all motions for intervention as moot based on the
7 dismissal of the case for lack of jurisdiction. (Dkt. #81).

8 Since the Ninth Circuit's mandate, there have been no rulings from the Court on
9 any matters, nor have there been any substantive proceedings to date. The only action
10 taken by the Court since the mandate has been the setting of a status conference for April
11 18, 2016. Therefore, NSSF's intervention will not prejudice any party to the case.

12 **B. NSSF Has a Protectable Interest in Plaintiffs' Claims for Relief.**

13 Under Rule 24(a)(2), NSSF has a protectable interest in the subject matter of the
14 RCRA claim alleged in the Complaint because the object of Plaintiffs' claim is the
15 product NSSF's members manufacture, distribute, sell and use. When a third-party
16 challenges an agency's final action or other regulatory policy, the members of the
17 regulated industry that are directly affected by that government action have a significant,
18 protectable interest that supports intervention.²⁸ In addition, NSSF has a direct interest in

19 _____
20 ²⁸ See *Fund for Animals v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (holding that
21 Foundation's members interest in hunting and conservation of wild sheep species
22 sufficient to warrant intervention in ESA suit against FWS to list the species); *NRDC v.*
23 *EPA*, 99 F.R.D. 607, 609 (D.D.C. 1983) (holding that pesticide manufacturers subject to
24 regulation under challenge had a legally protected interest); see also, e.g., *Military Toxics*
25 *Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998) (holding that companies that produce
26 military munitions and operate military firing ranges had standing to challenge EPA's
Military Munitions Rule); *Conservation Law Found. of New England v. Mosbacher*, 966
F.2d 39, 41-44 (1st Cir. 1992) (holding that commercial fishermen impacted by regulatory
plan to address overfishing had a recognizable interest in the timetable for implementing
that plan).

1 the economic vitality and legal rights of its members, which include the leading domestic
2 manufacturers of the traditional ammunition that is the subject of Plaintiffs' RCRA claim,
3 as well as thousands of distributors, firearms retailers, shooting ranges, sportsman's
4 organizations (including hunters and target shooters) that distribute, sell and use that
5 ammunition and are members of NSSF.²⁹ NSSF's members interests will be harmed if
6 Plaintiffs succeed on their claim and obtain a ruling that the use of lead ammunition is
7 subject to regulation under RCRA as the "disposal" of a "hazardous waste."

8 The reality is that this lawsuit indicates that this lawsuit is far more than an isolated
9 attempt to abate an alleged RCRA violation in a particular National Forest. In a
10 September 5, 2012 press release heralding the filing of this lawsuit, a Center for
11 Biological Diversity representative said that "[t]he Forest Service has a duty to prevent the
12 buildup of toxic materials and the needless lead poisoning of wildlife in *our national*
13 *forests*."³⁰ A Sierra Club representative described this lawsuit as a "step" toward a
14 broader transition away from traditional ammunition: "Because lead is so dangerous . . . it
15 is imperative that we take this important step to transition ammunition to less toxic
16 alternatives."³¹ She continued: "The Forest Service should require nonlead ammunition
17 for hunting *on public land* as an important step in limiting lead exposure for condors and
18 other wildlife."³² Additionally, Center for Biological Diversity maintains an entire web
19 "campaign" ("Get the Lead Out") devoted to its ongoing assault on traditional
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21 ²⁹ Keane Decl. at ¶ 6.

22 ³⁰ See Press Release, Center for Biological Diversity, Suit Filed to Protect Wildlife From
23 Lead Poisoning in Arizona's Kaibab National Forest (Sept. 5, 2012), *available at*
24 http://www.biologicaldiversity.org/news/press_releases/2012/lead-09-05-2012.html
(emphasis added).

25 ³¹ *Id.*

26 ³² *Id.* (emphasis added).

1 ammunition made with lead components.³³ In short, this lawsuit is clearly part of a
 2 broader effort by the Plaintiffs and intended to set precedent for the banning of the use of
 3 traditional ammunition.

4 **C. NSSF’s Interests Will Be Impaired by Resolution of the RCRA Claims**
 5 **in NSSF’s Absence.**

6 The third element in the four-part test, impairment, “follows from the factors”
 7 related to NSSF’s protectable interest.³⁴ For that reason, a prospective intervenor “has a
 8 sufficient interest for intervention purposes if it will suffer a practical impairment of its
 9 interests as a result of the pending litigation.”³⁵ Where the proceeding has the potential to
 10 subject the movant to governmental regulation or significantly change how the movant
 11 does business, the movant has a protectable interest that will be impaired or impeded by
 12 the relief sought.³⁶ That is clearly the case here with respect to Plaintiffs’ claim and its
 13 potential to impair the interests of NSSF and its members.

14 As discussed, NSSF’s members manufacture, distribute, sell and use traditional
 15 lead ammunition. The regulation of the use of traditional ammunition as the “disposal” of
 16 a “hazardous waste” under RCRA would require manufacturers to re-design their
 17 processes and facilities so that a different product could be manufactured, a complex
 18 process that would come only at great cost, if feasible at all.³⁷ Increased manufacturing

19 ³³See Center for Biological Diversity, *Get the Lead Out*,
 20 http://www.biologicaldiversity.org/campaigns/get_the_lead_out/ (last visited March 14,
 21 2016).

22 ³⁴ See *Sierra Club*, 995 F.2d at 1486, *abrogated on other grounds by Wilderness Soc.*, 630
 23 F.3d at 1177-78.

24 ³⁵ *Wilderness Soc.*, 630 F.3d at 1178 (quoting *Lockyer*, 450 F.3d at 441).

25 ³⁶ See, e.g., *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992); *Fund for*
 26 *Animals*, 322 F.3d at 735; *Military Toxics Project v. EPA*, 146 F.3d at 948, 954 (D.C. Cir.
 1998).

³⁷ Keane Decl. at ¶¶ 10-11.

1 costs in turn will cause the price of lead ammunition to the consumer to increase by an
2 estimated 190 percent.³⁸ In this way, further regulation of traditional ammunition would
3 create uncertainty in the marketplace, with effects (including shortages, price increases,
4 and reduced FAET revenues used for wildlife conservation) that would cascade through
5 the supply chain, significantly impacting NSSF members who distribute, sell, and use
6 ammunition for hunting and other recreational purposes.³⁹ Thus, the relief sought by
7 Plaintiffs would impair NSSF's members' protectable interests in the manufacture,
8 distribution, sale and use of traditional lead ammunition.

9 **D. NSSF's Interests May Not Be Adequately Represented by the Current**
10 **Parties to This Case.**

11 NSSF's burden in showing inadequate representation is minimal; it is sufficient to
12 show that representation "may be inadequate."⁴⁰ In determining whether the interests of
13 NSSF and its members will be adequately represented, this Court should consider
14 "whether the interest of a present party is such that it will undoubtedly make all the
15 intervenor's arguments; whether the present party is capable and willing to make such
16 arguments; and whether the intervenor would offer any necessary elements to the
17 proceedings that other parties would neglect."⁴¹ In assessing adequacy of representation,
18 this Court should focus on the subject of the action, not the particular issues before it at
19 the time of this motion.⁴²

20 ³⁸ *Id.* at ¶ 12.

21 ³⁹ *Id.*

22 ⁴⁰ *E.g., Trbovich v. United Mine Workers*, 404 U.S. 528, 538, n. 10 (1972)).

23 ⁴¹ *Forest Conservation Council v. U.S. Forest Service*, 66 F.3d 1489, 1498-99 (9th Cir.
24 1995) (citing *California v. Tahoe Reg. Planning Agency*, 792 F.2d 775, 778 (9th Cir.
1986)), *abrogated on other grounds by Wilderness Soc.*, 630 F.3d at 1177-80.

25 ⁴² *Sw. Ctr.*, 268 F.3d at 823 (citing *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528
26 (9th Cir. 1983)).

1 In this case, it is readily apparent that the Forest Service may not adequately
2 represent all of the economic, recreation and legal interests of NSSF and its members.
3 The Forest Service may defend its current regulation of hunting on National Forest
4 System land, but it is not in a position to assert arguments relating to NSSF's rights or to
5 address the impairment of NSSF's interests. For example, the agency is not in position to
6 defend against the relief sought by Plaintiffs by addressing the injuries and damages that
7 NSSF's members will suffer in the event that the Forest Service is directed to treat
8 hunting with lead ammunition as the "disposal" of a "hazardous waste" under RCRA.
9 "Inadequate representation is most likely to be found when the applicant assert[s] a
10 personal interest that does not belong to the general public."⁴³

11 Under these circumstances, it is well-established that the interests of the federal
12 agencies involved and NSSF may diverge because:

13 [w]e have here . . . the familiar situation in which the
14 governmental agency is seeking to protect not only the interest
15 of the public but also the private interest of the . . .
[intervenors], a task which is on its face impossible.⁴⁴

16 It also follows that NSSF will provide a unique perspective not otherwise represented by
17 the Forest Service. As a federal agency, the Forest Service simply does not have interests
18 that are analogous to the private interests of NSSF's members, nor does the Forest Service
19 share their business objectives. Therefore, NSSF, if allowed to intervene, will provide a
20 unique perspective not otherwise offered, defended or represented by the Forest Service, a
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23 ⁴³ *Forest Conservation Council*, 66 F. 3d at 1499 (citing 3B MOORE'S FEDERAL
24 PRACTICE, ¶ 24.07[4] at 24-78 (2d ed. 1995); CHARLES WRIGHT, ARTHUR R. MILLER &
25 MARY K. KANE, FEDERAL PRACTICE & PROCEDURE: CIVIL 2D § 1909 at 317, 346 (2d ed.
1986)).

26 ⁴⁴ *National Farm Lines v. ICC*, 564 F.2d 381, 384 (10th Cir. 1977).

1 federal agency whose policies and litigation positions are necessarily different from those
2 of a private litigant.

3 **III. IN THE ALTERNATIVE, NSSF SHOULD BE ALLOWED PERMISSIVE**
4 **INTERVENTION.**

5 In the alternative, NSSF should be granted permissive intervention under Rule
6 24(b). Rule 24(b) allows permissive intervention when an applicant “has a claim or
7 defense that shares with the main action a common question of law or fact.”⁴⁵ Permissive
8 intervention lies within the discretion of the Court and “in exercising its discretion, the
9 court must consider whether the intervention will unduly delay or prejudice the
10 adjudication of the original parties’ rights.”⁴⁶

11 Under Rule 24(b), NSSF need only demonstrate that its claim or defense and the
12 main action have a question of law or a fact in common.⁴⁷ Under this relaxed standard,
13 NSSF has an interest in the underlying subject matter of this case, i.e., the use of
14 traditional lead ammunition for hunting within the National Forests and other federal
15 lands. As demonstrated by its proposed answer, NSSF asserts that Plaintiffs’ RCRA
16 claims are unsupported and contrary to law. On this issue, NSSF’s defenses to Plaintiffs’
17 claims have both questions of law and fact in common with the main action. Because
18 NSSF’s intervention will not unduly delay the adjudication of the rights of the original
19 parties, NSSF should be allowed to intervene permissively if the Court finds that NSSF
20 cannot intervene as of right under Rule 24(a).

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23 ⁴⁵ Fed. R. Civ. P. 24(b)(1)(B).

24 ⁴⁶ Fed. R. Civ. P. 24(b)(3).

25 ⁴⁷ See Fed. R. Civ. P. 24(b); *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1109
26 (9th Cir. 2002) (granting permissive intervention in challenge to Forest Service rule under
NEPA), *abrogated on other grounds by Wilderness Soc.*, 630 F.3d at 1177-78.

1 **IV. CONCLUSION.**

2 For the reasons set forth above, NSSF requests that the Court issue an order
3 granting NSSF leave to intervene as a defendant at the Court's earliest convenience.

4 RESPECTFULLY SUBMITTED this 7th day of April, 2016.

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FENNEMORE CRAIG, P.C.

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By s/ Norman D. James
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Attorneys for National Shooting Sports
Foundation, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2016, I electronically transmitted the foregoing NATIONAL SHOOTING SPORTS FOUNDATION, INC.'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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s/Norman D. James _____