

1 FENNEMORE CRAIG, P.C.
Norman D. James (No. 06901)
2 Rhett A. Billingsley (No. 023890)
2394 E. Camelback Road
3 Suite 600
Phoenix, AZ 85016-2394
4 Telephone: (602) 916-5000
Email: njames@fclaw.com
5 rbilling@fclaw.com

6 Attorneys for National Shooting Sports
Foundation, Inc.
7

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

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

12 Plaintiffs,

13 v.

14 United States Forest Service,

15 Defendant,

16 and

17 National Shooting Sports Foundation,

18 Applicant for
19 Intervention.

No. CV-12-8176-PCT-SMM

**NATIONAL SHOOTING SPORTS
FOUNDATION, INC.’S REPLY
MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO INTERVENE**

20 Plaintiffs oppose the Motion to Intervene of National Shooting Sports Foundation,
21 Inc. (“NSSF”) (Doc. 90, “NSSF Motion to Intervene”), contending that NSSF and its
22 members lack significantly protectable interests that would be impaired if Plaintiffs were
23 to prevail and that the United States Forest Service (the “Forest Service”) will adequately
24 represent the interests of NSSF and its members. Both of these arguments are wrong. As
25 set forth in both NSSF’s Motion to Intervene and the Declaration of Lawrence Keane
26 (Doc. 91, “Keane Decl.”), NSSF clearly meets the standard for intervention of right
27 pursuant to Rule 24(a)(2). Alternatively, NSSF should be granted permissive intervention
28 under Rule 24(b).

1 **I. NSSF MEETS THE STANDARD FOR INTERVENTION AS OF RIGHT**
 2 **UNDER RULE 24(A)(2).¹**

3 **A. Plaintiffs Mischaracterize the Nature of NSSF's Interest in This Case.**

4 Plaintiffs spend the first several pages of their response mischaracterizing NSSF's
 5 arguments and interests and confusing the issues in this case.² Plaintiffs have sued the
 6 Forest Service under the citizen suit provision of the Resource Conservation and Recovery
 7 Act ("RCRA").³ This provision authorizes persons to commence civil actions "against
 8 any person . . . who has contributed or who is contributing to the past or present handling,
 9 storage, treatment, transportation, or disposal of any solid or hazardous waste which may
 10 present an imminent and substantial endangerment to health or the environment."⁴
 11 Pursuant to this provision, Plaintiffs allege that the Forest Service has substantially
 12 endangered certain wildlife by failing to ban traditional lead-based ammunition.⁵ This
 13 claim focuses on hunting on the Kaibab National Forest. But it could apply to any
 14 national forest or any other federal land, as well as State and private land.

15 To prevail on this claim, Plaintiffs must establish that hunters are disposing of a
 16 solid or hazardous waste by discharging their firearms and failing to retrieve their bullets.
 17 Thus, the Forest Service's liability as a "contributor" under the RCRA citizen suit
 18 provision depends on this Court first determining that hunting with traditional ammunition
 19 constitutes the "disposal" of a "solid waste" or a "hazardous waste."⁶ If there is no
 20 regulated "disposal," Plaintiffs' suit fails.

21 However, the Forest Service can avoid liability if the agency is not a
 22 "contributor"—regardless of whether hunting with traditional ammunition is determined

23 _____
 24 ¹ Plaintiffs do not contest the timeliness of NSSR's motion to intervene. Consequently,
 this element of the test for intervention is not addressed below.

25 ² See Plaintiffs' Response in Opposition to [NSSF's] Motion for Leave to Intervene
 ("Response") at 4-6.

26 ³ 42 U.S.C. § 6972(a)(1)(B)

27 ⁴ *Id.*

28 ⁵ See generally Plaintiffs' Complaint (Doc. 1).

⁶ *Id.* The terms "disposal," "hazardous waste," and "solid waste" are terms defined under
 RCRA. See 42 U.S.C. § 6903((3), (5), (27).

1 to constitute a “disposal” under RCRA. Consequently, the Forest Service may not
2 challenge the first element of Plaintiffs’ claim—that hunting constitutes the disposal of a
3 solid or hazardous waste.

4 The bottom line, therefore, is that the Plaintiffs are requesting relief against the
5 Forest Service that would ban the use of traditional ammunition within the Kaibab
6 National Forest. This alone would have a direct impact on the interests of NSSF and its
7 members, which, as explained by Mr. Keane, manufacture, distribute, and sell 90 percent
8 of domestically-produced traditional ammunition, as well as firearms and shooting and
9 hunting-related goods and services.⁷ But the precedent that this case could establish is
10 much broader in scope. Indeed, the issue of whether hunting constitutes the disposal of a
11 solid or hazardous waste under RCRA has nationwide significance, and how this issue is
12 decided will affect the interests of NSSF and its members on a national scale.

13 A recent en banc Ninth Circuit opinion, *Wilderness Society v. U.S. Forest Service*,
14 emphasized that Federal Rule of Civil Procedure 24(a)(2) should be construed broadly in
15 favor of proposed intervenors.⁸ The court stated:

16 [The] intervenor’s asserted interest need not be protected by the statute
17 under which the litigation is brought to qualify as “significantly protectable”
18 under Rule 24(a)(2). . . . Rather, “[i]t is generally enough that the interest is
19 protectable under some law, and that there is a relationship between the
20 legally protected interest and the claims at issue.” . . . Furthermore, a
21 prospective intervenor “has a sufficient interest for intervention purposes if
it will suffer a practical impairment of its interests as a result of the pending
litigation.” . . .⁹

22 NSSF has clearly met this relaxed standard in light of the potential ramifications of this
23 suit on NSSF’s members. Plaintiffs’ Response provides no contrary authority. Instead,
24 they have improperly attempted to marginalize the interests of NSSF’s members and the
25 obvious impairment of those interests if they were to prevail.

26 ⁷ See Keane Decl. at ¶¶ 6, 8.

27 ⁸ 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc) (citing and discussing numerous cases).

28 ⁹ *Id.* (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481, 1484 (9th Cir. 1993), *California ex rel Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006)) (citations omitted).

1 **B. NSSF Has a Protectable Interest.**

2 NSSF has a protectable interest in the subject matter of Plaintiffs’ RCRA claim
3 because the use of traditional ammunition—the vast majority of which is manufactured by
4 NSSF’s members¹⁰—is the object of the Complaint.¹¹ As explained above, the alleged
5 “endangerment” is being caused by the use of traditional ammunition, which, according to
6 Plaintiffs, results in a “disposal” subject to RCRA. Given the elements of Plaintiffs’
7 claim, and contrary to Plaintiffs’ Response, *Fund for Animals v. Norton*¹² is
8 indistinguishable from this case and supports intervention.

9 In *Fund for Animals*, the plaintiff sued to enjoin the Secretary of the Interior and
10 the Fish and Wildlife Service from issuing permits for the importation of hunted
11 Mongolian sheep, and the Mongolian government sought to intervene on the side of the
12 federal defendants.¹³ Finding that the Mongolian government had an interest relating to
13 the property and transaction which was the subject matter of the plaintiff’s claim for
14 relief, the court permitted Mongolia’s intervention.¹⁴

15 Plaintiffs argue that the relevant “property” here is the Kaibab National Forest and
16 that the relevant “transaction” is “the Forest Service’s failure to abate known
17 endangerment on its property.”¹⁵ This argument conflicts with *Fund for Animals* itself,
18 which reasoned that the relevant “property” in that case was Mongolia’s sheep and that
19 the relevant “transaction” was “the FWS’s decision to permit the importation of those
20 sheep from Mongolia.”¹⁶ Here, the relevant “property” is the ammunition manufactured,
21 distributed and/or sold by NSSF’s members, and the relevant “transaction” is the Forest
22

23 ¹⁰ See Keane Decl. at ¶ 8 (“Approximately 95% of the domestically manufactured
24 ammunition is traditional ammunition made with lead bullets or shot, and over 90% of
25 that domestically manufactured traditional ammunition is manufactured by NSSF
26 members.”).

27 ¹¹ See Complaint (Doc. 1) at ¶¶ 45-47.

28 ¹² 322 F.3d 728, 730-31 (D.C. Cir. 2003).

¹³ *Id.* at 730-31.

¹⁴ *Id.* at 735-37 (holding that the other Rule 24(a)(2) factors were also met).

¹⁵ See Response at 8.

¹⁶ See *Fund for Animals*, 322 F.3d at 735.

1 Service's decision to allow the use of that ammunition in the national forest.
2 Additionally, just as in *Fund for Animals*, the fact that the proposed intervenor (here
3 NSSF, in *Fund for Animals* the Mongolian government) would not itself be personally
4 subject to the regulation sought by the Complaint does not change the analysis.¹⁷

5 NSSF also has a direct interest in the economic vitality and legal rights of its
6 membership, which includes the manufacturers of the bulk of the traditional ammunition
7 at issue in this case as well as thousands of distributors, firearms retailers, shooting
8 ranges, and sportsman's organizations who variously distribute, sell, and use that
9 ammunition.¹⁸ Plaintiffs cite *Trident Seafoods Corp. v. Bryson*, a district court case, for
10 the proposition that such "generalized" interest "is inadequate to support intervention."¹⁹
11 *Trident Seafoods* is clearly distinguishable, however.

12 First, Plaintiffs cite that case as "finding proposed interveners' interests insufficient
13 at [the] merits stage when based on maintaining market share."²⁰ NSSF's interests in this
14 case do not relate to maintaining the "market share" of any particular member. As Mr.
15 Keane explains, NSSF's members include more than 13,000 federally-licensed firearms
16 manufacturers, distributors, and retailers; companies manufacturing, distributing, and
17 selling shooting and hunting-related goods and services; sportsmen's organizations; public
18 and private shooting ranges; and gun clubs.²¹ Thus, NSSF not only represents virtually
19 the entire firearms and ammunition industry, but its members have varied interests in that
20 industry and in the use of traditional ammunition.

21 Second, this is not a case in which NSSF's interests are only implicated in the
22

23 ¹⁷ See *id.* at 735; compare Response at 7. It should be noted, however, that under
24 Plaintiffs' endangerment theory, an NSSF member using traditional ammunition may be
25 liable for the "disposal" of a solid or hazardous waste. The Forest Service's liability is
derivative, i.e., the agency is allegedly "contributing" to the "disposal." See 42 U.S.C.
§ 6972(a)(1)(B).

26 ¹⁸ See Keane Decl. at ¶ 6, 8.

27 ¹⁹ See Response at 8 (citing *Trident Seafoods Corp. v. Bryson*, 2012 WL 1884657, *3-4
(W.D. Wash. May 23, 2012)).

28 ²⁰ See Response at 8-9.

²¹ See Keane Decl. at ¶ 6.

1 remedy stage. Although NSSF has an interest in averting any remedy requiring the Forest
 2 Service to ban the use of traditional ammunition, its interest in avoiding an endangerment
 3 finding, which must be proven as a part of Plaintiffs' prima facie case, is even more
 4 important. As explained above, the Forest Service's liability for endangerment depends
 5 on this Court determining that hunting with traditional ammunition constitutes the
 6 "disposal" of a solid or hazardous waste within the meaning of RCRA. NSSF has a
 7 significant interest in preventing the creation of a precedent that could be used in future
 8 RCRA citizen suits attacking the use of traditional ammunition and, moreover, may alter
 9 federal policy on a national scale.

10 **C. NSSF's Ability to Protect Its Interests Will Be Impaired by Resolution**
 11 **of Plaintiffs' Endangerment Claim in NSSF's Absence.**

12 The impairment element of the test for intervention of right "follows from the
 13 factors" related to NSSF's protectable interest.²² Because NSSF has a protectable interest
 14 in the subject matter of Plaintiffs' suit—the use of traditional ammunition—and in the
 15 economic well-being of its members, and because an endangerment finding would impair
 16 these interests, this element is satisfied.²³

17 Plaintiffs argue that the precedential value of an endangerment finding in this case
 18 is not a sufficient basis for finding impairment, citing *Dilks v. Aloha Airlines*.²⁴ *Dilks*,
 19 however, is inapposite. In that case, the pilots' union sought to intervene as a defendant
 20 where an airline pilot sued his airline for wrongful discharge.²⁵ The pilot's complaint
 21 alleged that arbitrating his case as required under the collective bargaining agreement

22 _____
 23 ²² *Sierra Club*, 995 F.2d at 1486, *abrogated on other grounds by Wilderness Society*,
supra n. 7.

24 ²³ Plaintiffs argue that an endangerment finding would not impair any interest NSSF has
 25 in the Kaibab National Forest. See Response at 10. However, as *Fund for Animals*
 26 indicates, the relevant "property" interest is the interest of NSSF and its members in the
 use of *traditional ammunition*, which is alleged cause of the endangerment and, therefore,
 is the subject matter of Plaintiffs' suit. The Kaibab National Forest is the location of the
 alleged endangerment.

27 ²⁴ See Response at 10 (citing *Dilks v. Aloha Airlines*, 642 F.2d 1155, 1157 (9th Cir.
 1981)).

28 ²⁵ See *Dilks*, 642 F.2d at 1156.

1 would be futile because the union had breached its duty to fairly represent him.²⁶ In
 2 seeking to intervene, the union urged “that it may have potential liability for damages if it
 3 is found to have breached its obligation of fair dealing.”²⁷ The court found this fear
 4 “speculative” because the plaintiff had pledged not to sue the union.²⁸ *Dilks*, therefore,
 5 held only that fear of being sued for damages was too “speculative” to justify intervention
 6 where the plaintiff had pledged not to sue.²⁹ Here, NSSF’s members’ interests are such
 7 that they may be impaired regardless of whether NSSF itself is actually sued or whether
 8 Plaintiffs pledge not to sue NSSF and its members.

9 Plaintiffs also rely on *Greene v. United States*, in which the Ninth Circuit found
 10 that an Indian tribe’s concerns over how federal recognition of another tribe might impact
 11 a separate line of cases addressing treaty fishing rights was too attenuated to support
 12 intervention.³⁰ Similarly, Plaintiffs cite *Northern California River Watch v. Fluor Corp.*,
 13 for the proposition that speculative *stare decisis* effects are insufficient to support
 14 intervention.³¹ Again, the facts were much different as the proposed intervenor (which
 15 was allowed to intervene) was concerned that the plaintiff’s suit would impair its own suit
 16 against Fluor for recovery of property clean-up costs and damages under different
 17 statutes.³² The court held that the intervenor “has not established that there is a risk that
 18 the ruling of the federal district court in this case would have any *stare decisis* effect on its
 19 interest in cost recovery or property damages.”³³

20 The facts in the *Greene* and *Fluor* cases stand in stark contrast to the potential
 21 precedential impact of this case on the use of traditional ammunition. As explained,
 22

23 ²⁶ *Id.*

24 ²⁷ *Id.* at 1157.

25 ²⁸ *See id.*

25 ²⁹ *See id.*

26 ³⁰ Response at 6 (citing *Greene v. United States*, 996 F.2d 973, 977-78 (9th Cir. 1993)).

27 ³¹ Response at 6 (citing *N. Cal. River Watch v. Fluor Corp.*, 2014 WL 3385287 (N.D. Cal.
 27 July 9, 2014)).

28 ³² 2014 WL 3385287 at *17-*18.

³³ *Id.* at *17.

1 Plaintiffs' suit hinges on whether hunting with traditional ammunition results in the
 2 "disposal" of a solid or hazardous waste within the meaning of RCRA. Furthermore,
 3 although cited in *Greene*, Plaintiffs fail to acknowledge the Ninth Circuit's decision in
 4 *United States v. Oregon*, which stated that "a *stare decisis* effect is an important
 5 consideration in determining the extent to which an applicant's interest may be
 6 impaired."³⁴

7 Finally, Plaintiffs express disbelief at the statements of Mr. Keane, NSSF's Senior
 8 Vice President, Assistant Secretary, and General Counsel.³⁵ For starters, Plaintiffs are not
 9 entitled to contest the factual validity of Mr. Keane's Declaration.³⁶ Furthermore,
 10 Plaintiffs' assertion that the traditional ammunition manufacturing industry has "survived"
 11 a ban on the use of lead shot for waterfowl hunting is a red herring. The relevant inquiry
 12 under Rule 24(a)(2) is whether the interests of NSSF and its members may be impaired by
 13 an endangerment finding in this case, not whether the ammunition industry can "survive"
 14 an endangerment finding.³⁷

15 **D. NSSF's Interests May Not Be Adequately Represented.**

16 In arguing that NSSF's interests are adequately represented by the Forest Service,
 17 Plaintiffs assert that "[a] presumption of adequate representation exists when an applicant
 18 for intervention and an existing party have the same ultimate objective."³⁸ But this
 19

20 ³⁴ *United States v. Oregon*, 839 F.2d 635, 638 (9th Cir. 1988) (citing *United States v.*
 21 *Stringfellow*, 783 F.2d 821, 826 (9th Cir. 1986) ("The prospect of *stare decisis* may, under
 22 certain circumstances, supply the requisite practical impairment warranting intervention as
 23 of right."), *vacated and remanded on other grounds sub nom. Stringfellow v. Concerned*
 24 *Neighbors in Action*, 480 U.S. 370 (1987), and *Smith v. Pangilinan*, 651 F.2d 1320, 1325
 25 (9th Cir. 1981)); *see also Forest Conserv. Council v. U.S. Forest Serv.*, 66 F.3d 1489,
 26 1498 (9th Cir. 1995) (citing and following *Oregon* and discussing numerous cases),
 27 *abrogated on other grounds by Wilderness Society, supra* n.7.

28 ³⁵ *See* Response at 11.

³⁶ *See Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 819-20 (9th Cir. 2001)
 ("Courts are to take all well-pleaded, nonconclusory allegations in the motion to
 intervene, the proposed complaint or answer in intervention, and declarations supporting
 the motion as true absent sham, frivolity or other objections.").

³⁷ *See* FED. R. CIV. P. 24(a)(2).

³⁸ *See* Response at 12 (citing *Nw. Forest Res. Council v. Glickman*, 82 F.3d 825, 838 (9th
 Cir. 1996)).

1 presumption does not apply to federal agencies, which are “required to represent a broader
2 view than the more narrow, parochial interests of” an individual intervenor.³⁹

3 NSSF represents the interests of ammunition manufacturers, distributors, and
4 consumers,⁴⁰ while the Forest Service is a federal agency charged with administering the
5 National Forest System, which includes a much broader spectrum of interests than those
6 of NSSF and its members. “Inadequate representation is most likely to be found when the
7 applicant assert[s] a personal interest that does not belong to the general public.”⁴¹
8 Because the interests of the Forest Service are necessarily much broader than those of
9 NSSF, no presumption of adequate representation applies. Even if that presumption did
10 apply, it would be overcome by the fact that NSSF’s “ultimate objective” is to protect its
11 members’ interests, which include makers, sellers and users of traditional ammunition,
12 from the adverse impacts identified in paragraphs 9 to 12 of the Keane Declaration. The
13 Forest Service certainly does not share that objective.⁴²

14 The fact that the Forest Service and NSSF may both share the objective of
15 defeating Plaintiffs’ claim at the liability stage is not a basis for finding that NSSF’s
16 interests are adequately represented. First, if that were the case, no applicant could ever
17 successfully intervene on the side of a defendant, since an applicant seeking to join a case
18 on the side of the defendant necessarily stands in opposition to a finding of liability.
19 Second, the mere fact that “both entities occupy the same posture in the litigation” does
20 not necessarily mean that “the government’s representation of the public interest . . . [is]

21
22 ³⁹ See *Forest Conserv. Council*, 66 F.3d at 1499 (citing and discussing numerous cases).

23 ⁴⁰ See Keane Decl. at ¶ 6.

24 ⁴¹ *Forest Conserv. Council*, 66 F.3d at 1499 (citing 3B MOORE’S FEDERAL PRACTICE,
25 ¶ 24.07[4] at 24-78 (2d ed. 1995); CHARLES WRIGHT, ARTHUR R. MILLER & MARY K.
26 KANE, FEDERAL PRACTICE & PROCEDURE: CIVIL 2D § 1909 at 317, 346 (2d ed. 1986)).

27 ⁴² Plaintiffs also argue that “it will be presumed that a state adequately represents its
28 citizens when the applicant shares the same interest.” See Response at 12 (citing *Lockyer*,
450 F.3d at 443). NSSF is unsure whether Plaintiffs are referring to the presence of the
State of Arizona as an intervenor in this suit. If Plaintiffs are arguing that the State will
adequately represent NSSF’s interests, the State has not yet moved to intervene and has
not committed to do so. Further, the State does not share the same interests as the NSSF
and its members for the same reasons that the Forest Service does not share such interests.

1 identical to the individual parochial interest of a particular group.”⁴³ While the United
2 States has indicated that it intends to file a motion to dismiss, it is not clear whether the
3 Forest Service will vigorously defend Plaintiffs’ claims if its motion is denied. As
4 explained, the Forest Service’s liability is derivative, i.e., it allegedly contributed to the
5 endangerment caused by the disposal. Thus, there is no assurance that the Forest Service
6 will adequately protect the interests of NSSF’s members in the use of traditional
7 ammunition.

8 For these reasons, as well as those reasons set forth in NSSF’s Motion to Intervene,
9 NSSF has plainly met its minimal burden⁴⁴ of showing that the Forest Service’s
10 representation of the varying interests of NSSF and its members “may be inadequate.”
11 Because the elements of Rule 24(a)(2) are met, intervention as of right should be granted.

12 **II. IN THE ALTERNATIVE, NSSF SHOULD BE GRANTED PERMISSIVE**
13 **INTERVENTION.**

14 Plaintiffs’ Response does not dispute that NSSF’s defenses to its claims have
15 questions of law and fact in common with the main action. Instead, Plaintiffs assert that
16 NSSF’s intervention would needlessly delay the proceedings.⁴⁵ On this point, Plaintiffs
17 cite *Tripp v. Executive Office of the President*, which is not factually analogous due to the
18 pendency of parallel lawsuits at different stages.⁴⁶ The only argument Plaintiffs make in
19 support of their assertion that NSSF’s intervention would needlessly delay the litigation is
20 that NSSF may want to participate in discovery. However, a party’s desire to participate
21 in discovery and to assist in the development of facts that will be important to the Court’s
22 resolution of the case can hardly be considered a “needless” or “undue” delay.

23
24 ⁴³ *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 899 (9th Cir. 2011)
25 (citation omitted; internal quotation marks omitted).

26 ⁴⁴ *See Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n. 10 (1972) (“The
27 requirement of the Rule is satisfied if the applicant shows that representation of his
28 interest ‘may be’ inadequate; and the burden of making that showing should be treated as
minimal.”)

⁴⁵ *See* Response at 14-15.

⁴⁶ *Tripp v. Executive Office of the President*, 194 F.R.D. 344 (D.D.C. 2000).

1 Accordingly, NSSF should be granted permissive intervention if this Court denies
2 intervention of right.

3 **III. CONCLUSION AND RELIEF REQUESTED**

4 In light of the foregoing, NSSF respectfully requests that this Court grant its
5 Motion to Intervene as of right. Alternatively, NSSF requests it be granted permissive
6 intervention.

7 In addition, Plaintiffs' request that NSSF and the proposed NRA and SCI
8 intervenors file joint briefs should be denied. Unlike the intervenors in *Trident Seafoods*,
9 on which Plaintiffs rely, NRA and SCI seek to intervene on behalf of different interests
10 than does NSSF, whose members manufacture more than 90 percent of the traditional
11 ammunition made in the United States. These companies provide approximately 287,986
12 jobs in the U.S., and have an overall annual economic impact of almost \$49 billion.⁴⁷
13 Thus, the interests of NSSR differ from the other proposed intervenors, and they cannot be
14 presumed to present the same arguments as NSSF.⁴⁸ Plaintiffs have made no attempt to
15 show otherwise. In this regard, NSSF does not intend to simply repeat arguments made
16 by other defendants, as Plaintiffs' request presumes. Therefore, Plaintiffs' request should
17 be denied.

18 RESPECTFULLY SUBMITTED this 2nd day of May, 2016.

19 FENNEMORE CRAIG, P.C.

20
21 By s/ Norman D. James
22 Norman D. James
23 Rhett A. Billingsley
24 Attorneys for National Shooting Sports
Foundation, Inc.

25 ⁴⁷ Keane Decl. at ¶¶ 6-8.

26 ⁴⁸ In *Trident*, both applicants' interests were limited to the remedy phase of the case and
27 were identical—maintaining their rockfish harvest quotas. *See Trident*, 2012 WL
28 1884657 at *3,*5-*6. By contrast, NSSF has a protectable interest in the merits of
Plaintiffs' claim, i.e., whether hunting is a "disposal" of a solid or hazardous waste under
RCRA. Further, NRA and SCI seek to intervene on behalf of interests different than those
of NSSF's members. *See NRA's Motion to Intervene* (Doc. 28) at 8-11.

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2016, I electronically transmitted the foregoing NATIONAL SHOOTING SPORTS FOUNDATION, INC.'S REPLY MEMORANDUM IN SUPPORT OF 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:

Adam F. Keats
Center for Biological Diversity
351 California Street, Suite 600
San Francisco, CA 94104
415-436-9682
Fax: 415-436-9683
Email: akeats@centerforfoodsafety.org
Attorney for Plaintiffs

Kevin M. Cassidy
Earthrise Law Center
Lewis & Clark Law School
P.O. Box 445
Norwell, MA 02061
781-659-1696
Email: cassidy@lclark.edu
Attorney for Plaintiffs

Dustin J. Maghamfar
U.S. Dept. of Justice - Environmental &
Natural Resources
P.O. Box 7611
Washington, D.C. 20044
202-514-1806
Fax: 202-514-8865
Email: dustin.maghamfar@usdoj.gov
Attorney for Defendant, United States
Forest Service

Allison LaPlante
Earthrise Law Center - Portland OR
Lewis & Clark Law School
10015 SW Terwilliger Blvd.
Portland, OR 97219
503-768-6894
Fax: 503-768-6642
Email: laplante@lclark.edu
Attorney for Plaintiffs

James Frederick Odenkirk
Office of the Attorney General
1275 W. Washington
Phoenix, AZ 85007-2997
602-542-7787
Fax: 602-542-7798
Email: james.odenkirk@azag.gov
Attorney for State of Arizona

Anna Margo Seidman
Safari Club International
501 2nd St NE
Washington, DC 20002
202-543-8733
Fax: 202-543-1205
Email: aseidman@safariclub.org
Attorney for Safari Club International

Douglas Scott Burdin
Safari Club International
501 2nd St NE
Washington, DC 20002
202-543-8733
Fax: 202-543-1205
Email: dburdin@safariclub.org
Attorney for Safari Club International

Carl Dawson Michel
Michel & Associates PC
180 E Ocean Blvd., Ste 200
Long Beach, CA 90802
562-216-4444
Fax: 562-216-4445
Email: cmichel@michelandassociates.com
Attorney for National Rifle Association

1 Scott M Franklin
2 Michel & Associates PC
3 180 E Ocean Blvd., Ste. 200
4 Long Beach, CA 90802
5 562-216-4444
6 Fax: 562-216-4445
7 Email: sfranklin@michellawyers.com
8 Attorney for National Rifle Association

9 s/Norman D. James _____

10 11569368.1/027975.0002