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14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16

17 _____)
18 NATURAL RESOURCES DEFENSE)
COUNCIL,)

19 Plaintiff,)

20 v.)

21 STEPHEN L. JOHNSON,)
Administrator, United States)
22 Environmental Protection)
Agency, and UNITED STATES)
23 ENVIRONMENTAL PROTECTION)
AGENCY,)

24 Defendants.)
25 _____)

No. CV06-4843 GAF (JTLx)
Hon. Gary A. Feess

ANSWER

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28

1 Defendants U.S. Environmental Protection Agency and Stephen
2 L. Johnson, Administrator (collectively "EPA"), by and through
3 counsel, hereby answer Plaintiff's Complaint ("Complaint").

4 **GENERAL DENIAL**

5 Except as expressly admitted herein, EPA denies each and
6 every allegation in the Complaint.

7 **SPECIFIC RESPONSES**

8 EPA responds to the correspondingly numbered paragraphs of
9 the Complaint as follows:

10 **INTRODUCTION**

11 1. This paragraph is a characterization of Plaintiffs'
12 claim to which no response is required.

13 2. EPA is without sufficient knowledge or belief to either
14 admit or deny the allegations contained in this paragraph and
15 therefore the allegations are denied.

16 3. EPA is without sufficient knowledge or belief to either
17 admit or deny the allegations contained in this paragraph and
18 therefore the allegations are denied.

19 4. This paragraph characterizes portions of the Clean
20 Water Act and Congress' intent in enacting certain statutory
21 sections. Congress and the Clean Water Act speak for themselves,
22 and therefore no response is required.

23 5. This paragraph consists of legal conclusions to which
24 no response is required.

25 6. EPA denies part (i) of the first sentence of this
26 paragraph and admits part (ii) of the first sentence of this
27 paragraph. To the extent the first sentence of this paragraph
28 consists of legal conclusions, no response is required. The

1 second sentence of this paragraph consists of legal conclusions
2 to which no response is required.

3 **JURISDICTION AND VENUE**

4 7. This paragraph consists of legal conclusions to which
5 no response is required.

6 8. This paragraph consists of legal conclusions to which
7 no response is required.

8 **THE PARTIES**

9 9. EPA is without sufficient knowledge or belief to either
10 admit or deny the allegations contained in the first sentence of
11 this paragraph and therefore the allegations are denied. The
12 second sentence of this paragraph is a legal conclusion to which
13 no response is required.

14 10. EPA is without sufficient knowledge or belief to either
15 admit or deny the allegations contained in this paragraph and
16 therefore the allegations are denied.

17 11. EPA is without sufficient knowledge or belief to either
18 admit or deny the allegations contained in this paragraph and
19 therefore the allegations are denied.

20 12. EPA is without sufficient knowledge or belief to either
21 admit or deny the allegations contained in this paragraph and
22 therefore the allegations are denied.

23 13. The first sentence of this paragraph is a legal
24 conclusion to which no response is required. EPA is without
25 sufficient knowledge or belief to either admit or deny the
26 allegations contained in the remainder of this paragraph and
27 therefore the allegations are denied.

28 14. This paragraph is a legal conclusion to which no

1 response is required.

2 15. Admit.

3 16. Admit.

4 **RELEVANT STATUTORY PROVISIONS**

5 A. REQUIRED HEALTH PROTECTION STUDIES

6 17. This paragraph characterizes portions of the Clean
7 Water Act. This statute speaks for itself, and therefore no
8 response is required.

9 18. This paragraph characterizes portions of the Clean
10 Water Act. This statute speaks for itself, and therefore no
11 response is required.

12 19. This paragraph characterizes portions of the Clean
13 Water Act and Congress' intent in enacting certain statutory
14 sections. Congress and the Clean Water Act speak for themselves,
15 and therefore no response is required.

16 20. This paragraph characterizes portions of the Clean
17 Water Act. This statute speaks for itself, and therefore no
18 response is required.

19 21. This paragraph characterizes portions of the Clean
20 Water Act. This statute speaks for itself, and therefore no
21 response is required.

22 B. DEADLINES

23 22. This paragraph characterizes portions of the Clean
24 Water Act. This statute speaks for itself, and therefore no
25 response is required.

26 23. This paragraph characterizes portions of the Clean
27 Water Act. This statute speaks for itself, and therefore no
28 response is required.

1 24. This paragraph characterizes portions of the Clean
2 Water Act. This statute speaks for itself, and therefore no
3 response is required.

4 **THE CHALLENGED AGENCY FAILURE TO ACT**

5 25. This paragraph characterizes portions of the Clean
6 Water Act. This statute speaks for itself, and therefore no
7 response is required.

8 26. This paragraph is a legal conclusion to which no
9 response is required.

10 27. This paragraph is a legal conclusion to which no
11 response is required.

12 28. This paragraph is a legal conclusion to which no
13 response is required.

14 29. The first sentence of this paragraph is a legal
15 conclusion to which no response is required. The remaining
16 sentences are admitted.

17 **CLAIMS FOR RELIEF**

18 FIRST CLAIM FOR RELIEF

19 30. EPA incorporates the previous admissions and denials as
20 set forth in all preceding paragraphs.

21 31. This paragraph characterizes portions of the Clean
22 Water Act. This statute speaks for itself, and therefore no
23 response is required.

24 32. This paragraph consists of legal conclusions to which
25 no response is required.

26 33. This paragraph consists of legal conclusions to which
27 no response is required.

1 **AFFIRMATIVE DEFENSES**

2 A. The Court lacks jurisdiction over the Complaint.

3 B. Plaintiffs fail to state a claim under which
4 relief can be granted.

5 C. The United States has not waived sovereign
6 immunity to some of the claims alleged.

7 Respectfully Submitted,

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9 Assistant Attorney General
10 Environment & Natural Resources
11 Division

12 Date: October 12, 2006

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