

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CATALYST ENERGY, INC.,)	
)	
Plaintiff,)	Civil Action No. 1:09-cv-00070-SJM
)	
v.)	
)	
THE UNITED STATES FOREST SERVICE;)	<i>Electronically filed</i>
LEANNE M. MARTEN; ANTHONY V.)	
SCARDINA; ROBERT T. FALLON; and KENT)	
P. CONNAUGHTON,)	
)	
Defendants,)	
)	
and)	
)	
SIERRA CLUB and ALLEGHENY DEFENSE)	
PROJECT,)	
)	
Proposed Intervenor-Defendants.)	
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ANSWER OF PROPOSED INTERVENOR-DEFENDANTS

Sierra Club and Allegheny Defense Project hereby answer the complaint filed by plaintiff.

1. Paragraphs 1-4, 11, 12, 14, 17-20, 23, 25-31, 33, 34, 35 (first sentence), 38, 42, 45, 46, 47 (all but first sentence), 54, 56, 57, 59, 61-63, 65-73, and 75-79 all constitute conclusions of law to which no response is required; to the extent that a response is required, the proposed intervenor-defendants deny the allegations.

2. All of the un-numbered "WHEREFORE" clauses constitute Catalyst's request for relief to which no response is required. To the extent that a response is required, the proposed intervenor-defendants deny that Catalyst is entitled to any relief whatsoever from the defendants.

3. Regarding paragraphs 5, 7-10, 13, 15, 16, 22, 32, 35 (second sentence), 36, 37, 39, and 48-53, the proposed intervenor-defendants lack sufficient information or knowledge to form a belief as to the truth of the allegations in those paragraphs.

4. In paragraphs 55, 60, 64, and 74, plaintiff simply incorporates by reference its prior allegations; and the proposed intervenor-defendants likewise incorporate the allegations of this answer.

5. The proposed intervenor-defendants admit the allegations contained in the first sentence of paragraph 6, and deny the allegations in the second sentence of paragraph 6.

6. Paragraph 21 characterizes the Weeks Act, the provisions of which speak for themselves, and are the best evidence of their content.

7. Paragraph 24 characterizes a document attached to the complaint, the provisions of which speaks for itself and which are the best evidence of their content.

8. Paragraph 40 characterizes the Notice of Termination, the provisions of which speak for themselves, and are the best evidence of their content.

9. The proposed intervenor-defendants admit the first sentence of paragraph 47 and the allegations of paragraph 58.

10. The proposed intervenor-defendants deny each and every allegation of plaintiff's Complaint to which the intervenor-defendants have not otherwise specifically responded to in this Answer.

AFFIRMATIVE DEFENSES OF THE PROPOSED INTERVENOR-DEFENDANTS

1. The Court lacks subject matter jurisdiction over claims raised in Plaintiff's Complaint.
2. Plaintiff has failed to state ultimate facts sufficient to constitute a claim.
3. Plaintiff failed to exhaust its administrative remedies.
4. Plaintiff has no standing to bring its claims.
5. Plaintiff's claims are barred by the doctrine of primary jurisdiction.
6. Plaintiff's claims are barred by the doctrine of claim preclusion.
7. Plaintiff's claims are barred by the doctrine of issue preclusion.
8. Plaintiff's claims are barred by the doctrine of unclean hands.
9. Plaintiff's claims are barred because they are unripe.
10. Plaintiff's claims are barred because plaintiff has failed to allege final agency action.
11. Plaintiff's claims are barred by the doctrine of laches.
12. Plaintiff's claims are barred by estoppel.
13. Plaintiff's claims are barred by waiver.

WHEREFORE, the proposed intervenor-defendants request that the complaint be dismissed with prejudice and costs awarded to the intervenor-defendants; and that the proposed intervenor-defendants be granted further relief as the Court may deem just and equitable.

Respectfully submitted June 20, 2009.

s/ Marianne Dugan
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